

MONTANA LEGISLATIVE HISTORY

Chapter 532 19 97

Bill H 169 S _____

Original bill & history ☒ c

H. Committee on Approp

S. Committee on Fin & Claims

Hearing Date(s) h 1/30 _____ c

Hearing Date(s) 4/10 _____ c

v 3/25 _____ c

4/12 _____ c

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Date Out _____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

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HB 169 INTRODUCED BY ZOOK, ET AL. *LC0063 DRAFTER: PETESCH*

REVISE AND CLARIFY THE LAWS GOVERNING APPROPRIATIONS AND THE
ADMINISTRATION OF STATE GOVERNMENT FINANCES
BY REQUEST OF LEGISLATIVE FINANCE COMMITTEE

1/02	INTRODUCED		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/06	REFERRED TO APPROPRIATIONS		
1/13	FISCAL NOTE RECEIVED		
1/13	FISCAL NOTE PRINTED		
1/30	HEARING		
3/25	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/26	2ND READING PASSED	82	15
3/27	3RD READING PASSED	67	33
	TRANSMITTED TO SENATE		
3/28	FIRST READING		
3/28	REFERRED TO FINANCE & CLAIMS		
4/10	HEARING		
4/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/14	2ND READING CONCURRED AS AMENDED	33	17
4/14	SEGREGATED FROM COMMITTEE OF WHOLE REPORT	28	22
4/14	ON MOTION RULES SUSPENDED TO PERMIT 3RD READING ON 4/15	50	0
4/15	2ND READING CONCURRED AS AMENDED	50	0
4/15	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/19	2ND READING AMENDMENTS CONCURRED	88	9
4/19	3RD READING CONCURRED AS AMENDED	84	13
4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/05	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 532		
	EFFECTIVE DATE: 05/05/97—SECTIONS 40(2) & 41		
	EFFECTIVE DATE: 07/01/97—SECTIONS 1-39 & 40(1)		

HB 170 INTRODUCED BY AHNER *LC0554 DRAFTER: HEFFELFINGER*

ESTABLISH A GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR
CERTAIN BENEFIT RECIPIENTS IN THE STATEWIDE PUBLIC EMPLOYEE
RETIREMENT SYSTEMS UNDER THE PUBLIC EMPLOYEES' RETIREMENT
BOARD

BY REQUEST OF PUBLIC EMPLOYEES' RETIRMENT BOARD

1/02	INTRODUCED		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/06	REFERRED TO STATE ADMINISTRATION		
1/15	FISCAL NOTE RECEIVED		
1/16	FISCAL NOTE PRINTED		
1/22	FISCAL NOTE PRINTED		
2/04	HEARING		
2/19	TABLED IN COMMITTEE		
3/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/11	2ND READING PASSED	82	15
3/12	3RD READING PASSED	85	13
	TRANSMITTED TO SENATE		
3/13	FIRST READING		
3/13	REFERRED TO STATE ADMINISTRATION		

HOUSE BILL NO. 169

INTRODUCED BY ZOOK, VAN VALKENBURG

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING THE LAWS GOVERNING APPROPRIATIONS AND THE ADMINISTRATION OF STATE GOVERNMENT FINANCES; CLARIFYING THE TREASURY FUNDS SUBJECT TO APPROPRIATION; REVISING AND CLARIFYING THE DEPOSIT OF CERTAIN FUNDS; REVISING THE STATUTORY APPROPRIATION OF CERTAIN FUNDS; CONFORMING THE ADMINISTRATION OF RETIREMENT SYSTEMS TO CONSTITUTIONAL REVISIONS; AUTHORIZING THE PUBLIC EMPLOYEES' RETIREMENT BOARD TO HIRE THEIR OWN PERSONNEL; LIMITING THE ADMINISTRATIVE EXPENSES OF THE RETIREMENT SYSTEMS; AMENDING SECTIONS 2-9-202, 2-15-1009, 2-18-812, 15-36-324, 17-2-101, 17-2-102, 17-2-103, 17-2-121, 17-3-221, 17-3-222, 17-6-201, 17-7-402, 17-7-502, 17-8-101, 19-2-404, 19-2-408, 19-2-502, 19-5-404, 19-6-709, 19-8-504, 19-9-702, 19-9-1007, 19-13-604, 19-13-1006, 19-13-1009, 19-17-301, 19-18-512, 19-19-205, 19-19-305, 19-19-506, 19-20-203, 19-20-501, 19-20-605, 50-3-109, 61-3-321, AND 76-13-114, MCA; REPEALING SECTIONS 19-9-208, 19-13-615, 19-18-513, 19-18-606, AND 19-20-606, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-9-202, MCA, is amended to read:

"2-9-202. Apportionment of costs -- creation of deductible reserve. (1) The department of administration shall apportion the costs of all insurance purchased under 2-9-201 to the individual state participants, and the costs ~~shall~~ must be paid to the department subject to appropriations by the legislature.

(2) The department, if it elects to ~~utilize~~ use a deductible insurance plan, is authorized to charge the individual state participants an amount equal to the cost of a full-coverage insurance plan until such time as a deductible reserve is established. In each subsequent year, the department may charge a sufficient amount over the actual cost of the deductible insurance to replenish ~~such~~ the deductible reserves.

(3) The department may accumulate a self-insurance reserve fund sufficient to provide self-insurance for all liability coverages that in its discretion the department considers should be self-insured.

1 Payments into the self-insurance reserve fund must be made from a legislative appropriation for that
2 purpose. Proceeds of the fund ~~are statutorily appropriated, as provided in 17-7-502, to~~ must be used by
3 the department to pay claims under parts 1 through 3 of this chapter. Expenditures for actual and necessary
4 expenses required for the efficient administration of the fund must be made from temporary appropriations,
5 as described in 17-7-501(1) or (2), made for that purpose.

6 (4) Money in reserve funds established under this section that is not needed to meet expected
7 expenditures ~~shall~~ must be invested and all proceeds of the investment credited to the fund."

8
9 **Section 2.** Section 2-15-1009, MCA, is amended to read:

10 **"2-15-1009. Public employees' retirement board -- terms -- allocation.** (1) There is a public
11 employees' retirement board.

12 (2) The board consists of six members appointed by the governor. The members are:

13 (a) three public employees who are active members of a public retirement system (not more than
14 one of these members may be an employee of the same department);

15 (b) one retired public employee who is an inactive member of the public employees' retirement
16 system; and

17 (c) two members at large.

18 (3) The term of office for each member is 5 years.

19 (4) The board is allocated to the department for administrative purposes only as prescribed in
20 2-15-121. The board shall hire necessary employees as provided in 19-2-404.

21 (5) Members of the board ~~shall~~ must be compensated and receive travel expenses as provided for
22 in 2-15-124."

23
24 **Section 3.** Section 2-18-812, MCA, is amended to read:

25 **"2-18-812. Alternatives to conventional insurance for providing state employee group benefits**
26 **authorized -- requirements.** The department may establish alternatives to conventional insurance for
27 providing state employee group benefits. The requirements for providing alternatives to conventional
28 insurance are as follows:

29 (1) The department ~~must~~ shall maintain state employee group benefit plans on an actuarially sound
30 basis.

(2) The department ~~must~~ shall maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of state employee group benefit plans.

(3) The department ~~must~~ shall deposit all reserve funds and premiums paid to a state employee group benefit plan, and the deposits ~~are statutorily appropriated, as provided in 17-7-502, to the department to~~ must be expended for claims under the plan.

(4) The department ~~must~~ shall deposit income earned from the investment of a state employee group benefit plan's reserve fund into the account established under subsection (3) ~~of this section~~ in order to offset the costs of administering the plan. Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose.

(5) The department shall, prior to implementation of any alternative to conventional insurance, present to the advisory council the evidence upon which the department has concluded that the alternative method will be more efficient, less costly, or otherwise superior to contracting for conventional insurance. ~~The department may not implement any full self insurance alternative prior to July 1, 1981.~~

(6) The provisions of Title 33 ~~shall~~ do not apply to the department when exercising the powers and duties provided for in this section."

Section 4. Section 15-36-324, MCA, is amended to read:

"15-36-324. Distribution of taxes. (1) For each calendar quarter, the department of revenue shall determine the amount of tax, late payment interest, and penalty collected under this part. For purposes of distribution of the taxes to county and school taxing units, the department shall determine the amount of oil and natural gas production taxes paid on production from pre-1985 wells, post-1985 wells, and horizontally drilled wells located in the taxing unit.

(2) Except as provided in subsections (3) and (4), oil production taxes must be distributed as follows:

(a) The amount equal to 41.6% of the oil production taxes, including late payment interest and penalty, collected under this part must be distributed as provided in subsection (7).

(b) The remaining 58.4% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (2)(b), must be deposited in the ~~agency~~ state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in

1 subsection (8).

2 (3) The amount equal to 100% of the oil production taxes, including late payment interest and
3 penalty, collected from working interest owners on production from post-1985 wells occurring during the
4 first 12 months of production must be distributed as provided in subsection (7).

5 (4) The amount equal to 100% of the oil production taxes, including late payment interest and
6 penalty, collected under this part on production from horizontally drilled wells and on the incremental
7 production from horizontally recompleted wells occurring during the first 18 months of production must be
8 distributed as provided in subsection (7).

9 (5) Except as provided in subsection (6), natural gas production taxes must be allocated as follows:

10 (a) The amount equal to 14.6% of the natural gas production taxes, including late payment interest
11 and penalty, collected under this part must be distributed as provided in subsection (7).

12 (b) The remaining 85.4% of the natural gas production taxes, plus accumulated interest earned on
13 the amount allocated under this subsection (5)(b), must be deposited in the ~~agency~~ state special revenue
14 fund in the state treasury and transferred to the county and school taxing units for distribution as provided
15 in subsection (8).

16 (6) The amount equal to 100% of the natural gas production taxes, including late payment interest
17 and penalty, collected from working interest owners under this part on production from post-1985 wells
18 occurring during the first 12 months of production must be distributed as provided in subsection (7).

19 (7) The department shall, in accordance with the provisions of 15-1-501(6), distribute the state
20 portion of oil and natural gas production taxes, including late payment interest and penalty collected, as
21 follows:

22 (a) 85% to the state general fund;

23 (b) 4.3% to the state special revenue fund for the purpose of paying expenses of the board as
24 provided in 82-11-135; and

25 (c) 10.7% to be distributed as provided by 15-38-106(2).

26 (8) (a) For the purpose of distribution of the oil and natural gas production taxes from pre-1985
27 wells, the department shall each calendar quarter adjust the unit value determined under 15-36-323
28 according to the ratio that the oil and natural gas production taxes from pre-1985 wells collected during
29 the calendar quarter for which the distribution occurs plus penalties and interest on delinquent oil and
30 natural gas production taxes from pre-1985 wells bears to the total liability for the oil and natural gas

1 production taxes from pre-1985 wells for the quarter for which the distribution occurs. The amount of oil
2 and natural gas production taxes distributions must be calculated and distributed as follows:

3 (i) By the dates referred to in subsection (9), the department shall calculate and distribute to each
4 eligible county the amount of oil and natural gas production taxes from pre-1985 wells for the quarter,
5 determined by multiplying the unit value, as adjusted in this subsection (8)(a), by the units of production
6 on which oil and natural gas production taxes from pre-1985 wells were owed for the calendar quarter for
7 which the distribution occurs.

8 (ii) Any amount by which the total tax liability exceeds or is less than the total distributions
9 determined in subsection (8)(a) must be calculated and distributed in the following manner:

10 (A) The excess amount or shortage must be divided by the total distribution determined for that
11 period to obtain an excess or shortage percentage.

12 (B) The excess percentage must be multiplied by the distribution to each taxing unit, and this
13 amount must be added to the distribution to each respective taxing unit.

14 (C) The shortage percentage must be multiplied by the distribution to each taxing unit, and this
15 amount must be subtracted from the distribution to each respective taxing unit.

16 (b) Except as provided in subsection (8)(c), the county treasurer shall distribute the money
17 received under subsection (9) from pre-1985 wells to the taxing units that levied mills in fiscal year 1990
18 against calendar year 1988 production in the same manner that all other property tax proceeds were
19 distributed during fiscal year 1990 in the taxing unit, except that a distribution may not be made to a
20 municipal taxing unit.

21 (c) The board of county commissioners of a county may direct the county treasurer to reallocate
22 the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as
23 provided in subsection (8)(b), to another taxing unit or taxing units, other than an elementary school or high
24 school, within the county under the following conditions:

25 (i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing
26 units within the county in the same proportion that all other property tax proceeds were distributed in the
27 county in fiscal year 1990.

28 (ii) If the allocation in subsection (8)(c)(i) exceeds the total budget for a taxing unit, the
29 commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

30 (d) The board of trustees of an elementary or high school district may reallocate the oil and natural

1 gas production taxes distributed to the district by the county treasurer under the following conditions:

2 (i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds
3 of the district in the same proportion that all other property tax proceeds were distributed in the district in
4 fiscal year 1990.

5 (ii) If the allocation under subsection (8)(d)(i) exceeds the total budget for a fund, the trustees may
6 allocate the excess to any budgeted fund of the school district.

7 (e) For all production from post-1985 wells and horizontally drilled wells completed after December
8 31, 1993, the county treasurer shall distribute oil and natural gas production taxes received under
9 subsections (2)(b) and (5)(b) between county and school taxing units in the relative proportions required
10 by the levies for state, county, and school district purposes in the same manner as property taxes were
11 distributed in the preceding fiscal year.

12 (f) The allocation to the county in subsection (8)(e) must be distributed by the county treasurer in
13 the relative proportions required by the levies for county taxing units and in the same manner as property
14 taxes were distributed in the preceding fiscal year.

15 (g) The money distributed in subsection (8)(e) that is required for the county mill levies for school
16 district retirement obligations and transportation schedules must be deposited to the funds established for
17 these purposes.

18 (h) The oil and natural gas production taxes distributed under subsection (8)(b) that are required
19 for the 6-mill university levy imposed under 20-25-423 and for the county equalization levies imposed under
20 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county treasurer
21 to the state treasurer.

22 (i) The oil and natural gas production taxes distributed under subsection (8)(e) that are required for
23 the 6-mill university levy imposed under 20-25-423, for the county equalization levies imposed under
24 20-9-331 and 20-9-333, and for the state equalization aid levy imposed under 20-9-360 must be remitted
25 by the county treasurer to the state treasurer.

26 (j) The amount of oil and natural gas production taxes remaining after the treasurer has remitted
27 the amounts determined in subsections (8)(h) and (8)(i) is for the exclusive use and benefit of the county
28 and school taxing units.

29 (9) The department shall remit the amounts to be distributed in subsection (8) to the county
30 treasurer by the following dates:

1 (a) On or before August 1 of each year, the department shall remit to the county treasurer oil and
2 natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

3 (b) On or before November 1 of each year, the department shall remit to the county treasurer oil
4 and natural gas production tax payments received for the calendar quarter ending June 30 of the current
5 year.

6 (c) On or before February 1 of each year, the department shall remit to the county treasurer oil and
7 natural gas production tax payments received for the calendar quarter ending September 30 of the previous
8 year.

9 (d) On or before May 1 of each year, the department shall remit to the county treasurer oil and
10 natural gas production tax payments received for the calendar quarter ending December 31 of the previous
11 calendar year.

12 (10) The department shall provide to each county by May 31 of each year the amount of gross
13 taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year
14 multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes
15 and for county bonding purposes.

16 (11) The distribution to taxing units under this section is statutorily appropriated as provided in
17 17-7-502."
18

19 **Section 5.** Section 17-2-101, MCA, is amended to read:

20 "17-2-101. **Title and purpose.** (1) Sections 17-2-101 through 17-2-107 may be cited as the
21 "Treasury Fund Structure Act".

22 (2) The purpose of these sections is to:

23 (a) comply with Article VIII, section 12, of the Montana constitution;

24 (b) simplify the accounting system and treasury fund structure of the state;

25 (c) ~~to~~ make possible the full utilization of modern accounting methods;

26 (d) ~~to~~ provide the legislature with a greater measure of control over public ~~moneys~~, money; and

27 (e) ~~to~~ enable the financial records of the state to accurately reflect the state's ~~revenues~~ revenue,
28 expenditures, expenses, and financial position in accordance with generally accepted accounting
29 principles."
30

1 **Section 6.** Section 17-2-102, MCA, is amended to read:

2 **"17-2-102. Fund structure.** (1) ~~There~~ For the purpose of ensuring strict accountability for all
3 revenue received and spent, there are in the state treasury only the following fund categories and types:

4 (a) the governmental fund category, which includes:

5 (i) the general fund, which accounts for all financial resources except those required to be
6 accounted for in another fund;

7 (ii) the special revenue fund type, which accounts for the proceeds of specific revenue sources
8 (other than expendable trusts or major capital projects) that are legally restricted to expenditure for specified
9 purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes,
10 into the following funds to serve the purpose indicated:

11 (A) The state special revenue fund consists of money from state and other nonfederal sources
12 deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an
13 agency, program, or function of state government and money from other nonstate or nonfederal sources
14 that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

15 (B) The federal special revenue fund consists of money deposited in the treasury from federal
16 sources, including trust income, that is used for the operation of state government.

17 (iii) the capital projects fund type, which accounts for financial resources to be used for the
18 acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust
19 funds; and

20 (iv) the debt service fund type, which accounts for the accumulation of resources for and the
21 payment of general long-term debt principal and interest;

22 (b) the proprietary fund category, which includes:

23 (i) the enterprise fund type, which accounts for operations:

24 (A) that are financed and operated in a manner similar to private business enterprises whenever
25 the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or
26 services to the general public on a continuing basis are to be financed or recovered primarily through user
27 charges; or

28 (B) whenever the legislature has decided that periodic determination of revenue earned, expenses
29 incurred, or net income is appropriate for capital maintenance, public policy, management control,
30 accountability, or other purposes; and

(ii) the internal service fund type, which accounts for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursed basis;

(c) the fiduciary fund category, which includes trust and agency fund types used to account for assets held by state government in a trustee capacity or as an agent for individuals, private organizations, other governmental entities, or other funds. These include the:

(i) expendable trust fund type;

(ii) nonexpendable trust fund type;

(iii) pension trust fund type; and

(iv) agency fund type.

(d) the higher education funds, which include:

(i) the current fund, which accounts for money deposited in the state treasury that is used to pay current operating costs relating to instruction, research, public service, and allied support operations and programs conducted within the Montana university system. The financial activities of the current fund are subdivided, for operational purposes, into the four following subfunds to serve the purpose indicated:

(A) The unrestricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations and is free of externally imposed restrictions, except those imposed by the legislature.

(B) The restricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations but only for purposes imposed by sources external to the board of regents and the legislature.

(C) The designated subfund segregates that portion of the current fund's financial resources that is associated with general operations but is separately classified in order to accumulate costs that are to be recharged as allocated to other funds or subfunds; identifies financial activities related to special organized activities of educational departments in which the activity is fully supported by supplemental assessments; and identifies special supply and facility fees that are approved for collections beyond normal course fees and their disposition.

(D) The auxiliary subfund segregates that portion of the current fund's financial resources that is devoted to providing essential on-campus services primarily to students, faculty, or staff wherein a fee, which is directly related to but does not necessarily equal the cost of the service provided, is charged to

1 the consumer.

2 (ii) the student loan fund, which accounts for money deposited in the state treasury that may be
3 loaned to students, faculty, or staff for purposes related to education, organized research, or public services
4 by the Montana university system;

5 (iii) the endowment fund, which accounts for money deposited in the state treasury by the Montana
6 university system wherein the principal portion of the amount received is nonexpendable but is available
7 for investment, thus producing consumable income. Expendable earnings on endowment funds are to be
8 transferred to appropriate operating funds pursuant to prevailing administrative requirements.

9 (iv) the annuity and life income fund, which accounts for money deposited in the state treasury by
10 the Montana university system under an agreement whereby the money is made available on condition that
11 the receiving unit of the Montana university system binds itself to pay stipulated amounts periodically to
12 the donor or others designated by the donor over a specified period of time;

13 (v) the plant fund, which accounts for those financial resources allocated to or received by the
14 Montana university system for capital outlay purposes or to retire long-term debts associated with
15 construction or acquisition of fixed assets and the net accumulative results of these activities; and

16 (vi) the agency fund, which accounts for money deposited in the state treasury wherein the
17 Montana university system acts in the capacity of a custodian or fiscal agent for individual students,
18 faculty, staff, and qualified organizations.

19 (2) In addition to the funds provided for in subsection (1), there are in the state treasury the
20 following account groups:

21 (a) the fixed assets account group, which is a self-balancing group of accounts set up to establish
22 accounting control and accountability for the state's general fixed assets, except those accounted for in
23 proprietary funds, trust funds, and the higher education funds designated in subsections (1)(d)(i)(D),
24 (1)(d)(iii), and (1)(d)(v); and

25 (b) the long-term debt account group, which is a self-balancing group of accounts set up to
26 establish accounting control and accountability for the state's unmatured general long-term liabilities, except
27 those accounted for in proprietary funds, trust funds, and the higher education funds designated in
28 subsections (1)(d)(i)(D), (1)(d)(iii), and (1)(d)(v)."

29
30 **Section 7.** Section 17-2-103, MCA, is amended to read:

1 "17-2-103. Previous definitions of funds -- identification or segregation of ~~moneys~~ money and
2 funds. (1) It is the intent of the legislature that the definitions in 17-2-102 supersede all previous definitions
3 of public funds ~~which~~ that are inconsistent with the definitions found in this part.

4 (2) Any laws enacted in the future or any contracts entered into in the future in pursuance of law
5 that require the segregation of ~~moneys~~ money in the state treasury by means of a separate treasury fund
6 ~~shall~~ must be interpreted as permitting the segregation of ~~such moneys~~ the money by means of a subfund
7 or account within one of the funds created by 17-2-102.

8 (3) Each federal grant or other federal money within any subfund or account of one of the funds
9 created by 17-2-102(1)(a) through (1)(c) must be identifiable as a separate accounting entity, reporting
10 center, responsibility center, or revenue identification code, and an account must be made of each such
11 grant or other money by income and expenditure for each federal grant year or fiscal year as may be
12 applicable.

13 (4) Unless otherwise specifically provided in the statutes pertaining to the tax, the portion of taxes
14 collected by the state that, pursuant to a statute, are to be allocated or distributed to units of local
15 government, school districts, authorities, or other local governmental entities ~~shall~~ must be accounted for
16 in a ~~fiduciary~~ state special revenue fund, established in 17-2-102, as prescribed by the department in
17 accordance with generally accepted accounting principles."

18
19 **Section 8.** Section 17-2-121, MCA, is amended to read:

20 "17-2-121. Deposits by insurance commissioner. ~~All~~ Except as provided in 33-2-708, all fees,
21 miscellaneous and examination charges, fines, penalties, and those amounts received pursuant to 33-2-311,
22 33-2-705, ~~or~~ 33-2-706, or 50-3-109 collected by the insurance commissioner pursuant to Title 33 and the
23 rules adopted ~~thereunder~~ to implement Title 33 must be deposited in the general fund."

24
25 **Section 9.** Section 17-3-221, MCA, is amended to read:

26 "17-3-221. State treasurer to be custodian of ~~moneys~~ money received under Taylor Grazing Act.
27 The state treasurer ~~shall be~~ is the custodian of all ~~moneys~~ money that the treasurer of the United States
28 ~~may transfer~~ transfers to the state of Montana under the terms of section 10 of the Taylor Grazing Act
29 approved June 28, 1934, (Public No. 482), which provides that the secretary of the United States treasury
30 pay one-half of the ~~moneys~~ money received from each grazing district each year to the state where

1 collected, to be expended as the legislature may prescribe. The money must be deposited in the federal
2 special revenue fund."

3
4 **Section 10.** Section 17-3-222, MCA, is amended to read:

5 **"17-3-222. Apportionment of moneys to counties.** (1) ~~It shall be~~ is the duty of the state treasurer
6 to properly apportion and allocate ~~these moneys~~ the money received pursuant to 17-3-221 to the county
7 treasurers, who ~~will~~ shall allocate and pay ~~all such moneys~~ the money as follows:

8 (a) 50% to the county general fund; and

9 (b) 50% to the common school fund of the county.

10 (2) The payments from the state to the county treasurers provided for in subsection (1) are
11 statutorily appropriated as provided in 17-7-502."

12
13 **Section 11.** Section 17-6-201, MCA, is amended to read:

14 **"17-6-201. Unified investment program -- general provisions.** (1) The unified investment program
15 directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be
16 administered by the board of investments in accordance with the prudent expert principle, which requires
17 any investment manager to:

18 (a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then
19 prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like
20 matters exercises in the conduct of an enterprise of a like character with like aims;

21 (b) diversify the holdings of each fund within the unified investment program to minimize the risk
22 of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do
23 so; and

24 (c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified
25 investment program.

26 (2) (a) Retirement funds may be invested in common stocks of any corporation, except that an
27 investment may not be made at any time that would cause the book value of the investments in any
28 retirement fund to exceed 50% of the book value of the fund or would cause the stock of one corporation
29 to exceed 2% of the book value of the retirement fund.

30 (b) Other public funds may not be invested in private corporate capital stock. "Private corporate

capital stock" means only the common stock of a corporation.

(3) (a) This section does not prevent investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana.

(b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in venture capital companies. Whenever possible, preference should be given to investments in those venture capital companies that demonstrate an interest in making investments in Montana.

(c) In discharging its duties, the board shall consider the preservation of purchasing power of capital during periods of high monetary inflation.

(d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a portion of a loan originated by a financial institution is not considered a direct loan.

(4) The board has the primary authority to invest state funds. Another agency may not invest state funds unless otherwise provided by law. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto any investments made under its general supervision.

(5) The board shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made;

(d) prepare the claim to pay for the investment; and

(e) keep an account of the total of each investment fund and of all the investments belonging to the fund and a record of the participation of each treasury fund account in each investment fund.

(6) The board may:

(a) execute deeds of conveyance transferring all real property obtained through foreclosure of any investments purchased under the provisions of 17-6-211 when full payment has been received for the property;

(b) direct the withdrawal of any funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of any securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased;

(d) expend funds needed to cover costs of necessary repairs to property owned by the board as an investment. The expenditures may be made directly by the board ~~and are statutorily appropriated, as provided in 17-7-502.~~ Repairs that cost in excess of \$2,500 must be bid, and the bid must be awarded in compliance with existing state law and regulations. Emergency repairs may be made by the board without bid if approved by the state architect.

(7) The cost of administering and accounting for each investment fund must be deducted from the income from each fund.

(8) At the beginning of each fiscal year, the board shall, from the appropriate fund, reimburse the department of commerce for the costs of administering programs established under Title 90, chapter 3, that are not covered by payback funds available from the account established in 90-3-305."

Section 12. Section 17-7-402, MCA, is amended to read:

"17-7-402. Budget amendment requirements. (1) Except as provided in subsection (6), a budget amendment may not be approved:

(a) by the approving authority, except a budget amendment to spend:

(i) additional federal revenue;

(ii) additional tuition collected by the Montana university system;

(iii) additional revenue deposited in the internal service funds within the department or the office of the commissioner of higher education as a result of increased service demands by state agencies;

(iv) Montana historical society enterprise revenue resulting from sales to the public;

(v) additional revenue that is deposited in funds other than the general fund and that is from the sale of fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91; or

(vi) revenue resulting from the sale of goods produced or manufactured by the industries program of an institution within the department of corrections;

(b) by the approving authority if the budget amendment contains any significant ascertainable commitment for any present or future increased general fund support;

(c) by the approving authority for the expenditure of money in the state special revenue fund unless an emergency justifies the expenditure or the expenditure is exempt under subsection (4);

(d) by the approving authority unless it will provide additional services;

(e) by the approving authority for any matter of which the requesting agency had knowledge at a time when the proposal could have been presented to an appropriation subcommittee, the house appropriations committee, or the senate finance and claims committee of the most recent legislative session open to that matter, except when the legislative finance committee is given specific notice by the approving authority that significant identifiable events, specific to Montana and pursuant to provisions or requirements of Montana state law, have occurred since the matter was raised with or presented for consideration by the legislature; or

(f) to extend beyond June 30 of the last year of any biennium.

(2) All budget amendments must itemize planned expenditures by fiscal year.

(3) Each budget amendment must be submitted by the approving authority to the budget director and the legislative fiscal analyst. The proposed expenditure of money from nonstate or nonfederal sources that is restricted by law must be submitted to the legislative fiscal analyst.

(4) Money from nonstate or nonfederal sources that would be deposited in the state special revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or donation, is exempt from the requirements of this part.

(5) An appropriation that would usually be the subject of a budget amendment that is submitted to the legislature for approval during a legislative session may not include authority to spend money beyond the first fiscal year of the next biennium.

(6) A budget amendment to spend state funds, other than from the general fund, required for matching funds in order to receive a grant is exempt from the provisions of subsection (1)."

Section 13. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: ~~2-9-202~~; 2-17-105; ~~2-18-812~~; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-5-404; 17-5-424; 17-5-804; 17-6-101; ~~17-6-201~~; 17-7-304; 18-11-112; ~~19-2-502~~; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-13-604; 19-13-1006; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001.)"

Section 14. Section 17-8-101, MCA, is amended to read:

"17-8-101. Appropriation and disbursement of money from treasury. (1) ~~Except as provided in subsection (5)~~ For purposes of complying with Article VIII, section 14, of the Montana constitution, money deposited in the general fund, the special revenue fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation), the enterprise fund type, the debt service fund type, and the capital projects fund type, with the exception of refunds authorized in subsection ~~(3)~~ (4), must be paid out of the treasury only on appropriation made by law.

(2) Money deposited in the ~~enterprise fund type~~, internal service fund type, ~~debt service fund type~~, expendable trust fund type, ~~nonexpendable trust fund type~~, ~~pension trust fund type~~, agency fund type, and state special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation, and ~~agency fund type~~ may be paid out of the treasury:

(a) by appropriation; or

(b) under general laws, or contracts entered into in pursuance of law, permitting the disbursement.

(3) The pension trust fund type is not considered a part of the state treasury for appropriation purposes. Money deposited in the pension trust fund type may be paid out of the treasury pursuant to general laws, trust agreement, or contract.

~~(3)(4)~~ Subject to the provisions of subsection (8), money Money paid into the state treasury through error or under circumstances, such that the state is not legally entitled to retain it and a refund procedure is not otherwise provided by law, may be refunded upon the submission of a verified claim approved by the department of administration.

~~(4)(5)~~ Authority to expend appropriated money may be transferred from one state agency to another, provided that the original purpose of the appropriation is maintained. The office of budget and program planning shall report semiannually to the legislative finance committee concerning all appropriations transferred under the provisions of this section.

~~(5)(6)~~ Fees and charges for services deposited in the internal service fund type must be based upon commensurate costs. The legislative auditor, during regularly scheduled audits of state agencies, shall audit and report on the reasonableness of internal service fund type fees and charges and on the fund equity balances.

~~(6)(7)~~ The office of budget and program planning shall include in the budget submitted to the legislature a report on:

(a) enterprise funds, including retained earnings and contributed capital, projected operations and charges, and projected fund balances; and

(b) internal service fund type fees and charges, including changes in the level of fees and charges, projected use of the fees and charges, and projected fund balances. Internal service fund type fees and charges must be approved by the legislature in the general appropriations act. Fees and charges in any biennium may not exceed the level approved by the legislature in the general appropriations act effective

1 for that biennium.

2 ~~(7)(8) Any~~ The creation of accounts in the enterprise fund or the internal service fund created after
3 ~~July 1, 1995,~~ must be approved by the department, using conformity with generally accepted accounting
4 principles as the primary approval criteria. The department shall report annually to the office of budget and
5 program planning and the legislative finance committee on the nature, status, and justification for all new
6 accounts in the enterprise fund and the internal service fund.

7 ~~(8)(9) Enterprise and internal service funds must be appropriated if they are used as a part of a~~
8 ~~program that is not an enterprise or internal service function and otherwise requires an appropriation paid~~
9 ~~out of the state treasury. The payment of funds into an internal service fund must be authorized by law."~~

10
11 **Section 15.** Section 19-2-404, MCA, is amended to read:

12 **"19-2-404. Appointment and compensation of administrative staff.** The department board shall
13 ~~appoint hire~~ and fix the compensation of an administrator and other necessary employees to assist the
14 board in administering the retirement systems. The compensation of the administrator and employees must
15 be established in accordance with Title 2, chapter 18."

16
17 **Section 16.** Section 19-2-408, MCA, is amended to read:

18 **"19-2-408. Administrative expenses.** (1) The legislature finds that proper administration of the
19 pension trust funds benefits both employers and members and continues to benefit members after
20 retirement.

21 (2) The administrative expenses of the retirement systems administered by the board must be paid
22 from the investment earnings on the pension trust fund of the public employees' retirement system, except
23 as provided in subsection (3). Before the fiscal yearend closing, the board shall compute the administrative
24 expenses attributable to each retirement system administered by the board for the immediately preceding
25 fiscal year and transfer that amount from each retirement system's pension trust fund to the pension trust
26 fund of the public employees' retirement system. The total administrative expenses of the board, including
27 the administration of the volunteer firefighters' pension plan, may not exceed 1.5% of the total retirement
28 benefits paid.

29 (3) On January 1 of each year, each employer under the public employees' retirement system shall
30 contribute on behalf of each member then in its service a membership fee of \$1 in addition to other required

contributions. The ~~appropriation of these fees, together with other money appropriated for that purpose,~~
must be used for the purpose of defraying the administrative expense of chapters 2, 3, 5 through 9, and
13 and this chapter.

(4) ~~Any request for an increase in spending authority for administrative expenses requires a budget~~
~~amendment and is subject to Title 17, chapter 7 part 4.~~

~~(5) The board may assess and the division may collect a fee from the department of fish, wildlife,~~
~~and parks for the purpose of defraying the expenses of administering chapter 8 of this title."~~

Section 17. Section 19-2-502, MCA, is amended to read:

"19-2-502. ~~Statutory appropriation of payments~~ Payments from pension trust funds. (1) ~~Assets~~
~~The board shall administer the assets of the pension trust funds are statutorily appropriated, as provided~~
~~in 17-7-502, to the division for payment of benefits and refunds to eligible recipients and for paying the~~
~~necessary administrative and investment expenses of the retirement systems as provided in Article VIII,~~
section 15, of the Montana constitution, subject to the specific provisions of chapters 2, 3, 5 through 9,
and 13 of this title.

(2) Benefits and refunds to eligible recipients are payable pursuant to a contract as contained in
statute. The contract is entered into on the first day of a member's covered employment and may be
enhanced by the legislature. Unless specifically provided for by statute, the contract does not contain
revisions to statutes after the time of retirement or termination."

Section 18. Section 19-5-404, MCA, is amended to read:

"19-5-404. Contributions by state. (1) The state of Montana shall contribute monthly to the
pension trust fund a sum equal to 6% of the compensation of each member. In addition, the clerk of each
district court shall transmit 68% of certain filing fees as required under 25-1-201(2) and that portion of the
fee for filing a petition for dissolution of marriage and a motion for substitution of a judge specified in
25-1-201(4) and (6) to the state, which shall first deposit in the pension trust fund an amount equal to
34.71% of the total compensation paid to district judges and supreme court justices who are covered by
the judges' retirement system and then deposit the balance in the state general fund. The clerk of the
supreme court shall pay one-fourth of the fees collected under 3-2-403 to the division to be credited to the
pension trust fund.

(2) The state of Montana shall contribute monthly from the renewable resource grant and loan program account in the state special revenue fund to the judges' pension trust fund an amount equal to 34.71% of the compensation paid to the chief water court judge. The state contributions in this section are statutorily appropriated as provided in 17-7-502."

Section 19. Section 19-6-709, MCA, is amended to read:

"19-6-709. (Temporary) Supplemental benefits for certain retirees. (1) In addition to any retirement benefit payable under this chapter, a retired member or a survivor determined by the board to be eligible under subsection (2) must receive an annual lump-sum benefit payment beginning in September 1991 and each succeeding year as long as the member remains eligible.

(2) To be eligible for the benefits under this section, a person must be receiving a monthly benefit before July 1, 1991, and must be:

(a) a retired member who is 55 years of age or older and who has been receiving a service retirement benefit for at least 5 years prior to the date of distribution;

(b) a survivor of a member who would have been eligible under subsection (2)(a); or

(c) a recipient of a disability or survivorship benefit under 19-6-601 or 19-6-901.

(3) A retired member otherwise qualified under this section who is employed in a position covered by a retirement system under Title 19 is ineligible to receive any lump-sum benefit payments provided for in this section until the member's service in the covered position is terminated. Upon termination of the member's covered service, the retired member becomes eligible in the next fiscal year succeeding the member's termination.

(4) (a) ~~Twenty-five~~ An amount equal to 25 cents of each motor vehicle registration fee provided for in 61-3-321(5) must be ~~deposited in~~ paid from the general fund to the pension trust fund at the end of each fiscal year. The ~~fee payment~~ is statutorily appropriated, as provided in 17-7-502, to the pension fund for payment of benefits to eligible recipients. The total funds must be distributed by the division in lump-sum payments to eligible recipients along with their normal retirement benefit payment.

(b) The lump-sum payment must be distributed proportionally to all eligible recipients based on service credit at the time of retirement, subject to the following:

(i) a recipient under subsection (2)(c) is considered to have 20 years of service for the purposes of the distributions;

(ii) any recipient of a service retirement benefit exceeding the maximum monthly benefit under 19-6-707(2)(a) must have the recipient's service credit reduced 25% for the purposes of the distributions;

(iii) the maximum annual increase in the amount of supplemental benefits paid to each individual under this section after August 31, 1993, is the percentage increase for the previous calendar year in the annual average consumer price index for urban wage earners and workers, compiled by the bureau of labor statistics of the United States department of labor or its successor agency.

(c) Any amount deposited in the pension trust fund under subsection (4)(a) for the payment of supplemental benefits under this section that exceeds the limitation of subsection (4)(b)(iii) must be used to amortize unfunded liabilities of the retirement system.

(5) Every 10 years following July 1, 1991, the division shall review the size of the additional fee collected under 61-3-321(5) and ~~deposited in the account~~ paid to the pension trust fund in accordance with subsection (4)(a) and recommend to each legislature following the division's review any legislation necessary to reduce the fee to the minimum amount necessary to provide the supplemental benefits provided by this section."

Section 20. Section 19-8-504, MCA, is amended to read:

"19-8-504. State's contribution. Each month, the state treasurer shall pay to the pension trust fund out of the department of fish, wildlife, and parks funds, a sum equal to 8.15% of all members' salaries. The payment is statutorily appropriated as provided in 17-7-502."

Section 21. Section 19-9-702, MCA, is amended to read:

"19-9-702. State contribution. The state of Montana shall make its contributions ~~through the state auditor out of~~ from the general fund ~~the premium tax on motor vehicle property and casualty insurance policies.~~ The ~~payments~~ general fund contributions must be made annually after the end of each fiscal year but no later than November 1 ~~from the gross premium tax after deduction for cancellations and returned premiums.~~ The division shall notify the state auditor by September 1 of each fiscal year of the annual compensation paid to all active members during the preceding fiscal year. The state's contribution is 15.66% of compensation paid to members. The contributions are statutorily appropriated as provided in 17-7-502."

1 **Section 22.** Section 19-9-1007, MCA, is amended to read:

2 **"19-9-1007. Supplement to certain benefits.** (1) The benefits paid in each fiscal year to a retired
3 member or the member's survivors may not be less than one-half of the compensation that will be paid in
4 the current fiscal year in the appropriate city or town to newly confirmed police officers.

5 (2) On or before October 1 of each year, the division shall make a report including the following
6 information:

7 (a) the names of all retired members who are receiving benefits from the retirement system as of
8 the date of the report;

9 (b) the names of all surviving spouses or dependent children who are receiving benefits from the
10 retirement system because of the death of an active or retired member of this or a prior plan;

11 (c) for the purpose of determining the base retirement, disability, or survivorship benefits for the
12 computations set forth in subsection (3), the following information relating to the base fiscal year
13 commencing July 1, 1976:

14 (i) the amount of the benefits paid in the base fiscal year to each retired member described in
15 subsection (2)(a);

16 (ii) the amount of the benefits paid in the base fiscal year to each surviving spouse or dependent
17 child described in subsection (2)(b);

18 (iii) upon the death after the base fiscal year of any retired member who was receiving benefits, the
19 amount of benefits that would have been paid to an eligible surviving spouse of the retired member if the
20 surviving spouse had been receiving benefits in the base fiscal year;

21 (d) the original amount of retirement, disability, or survivorship benefits paid to retired members
22 or their eligible survivors as of the original retirement dates after July 1, 1975;

23 (e) the compensation that will be paid during the current fiscal year to a newly confirmed police
24 officer of each city or town participating in the retirement system.

25 (3) The division shall compute the difference between each amount reported under subsections
26 (2)(c) through (2)(e) and one-half the compensation to be paid during the current fiscal year to a newly
27 confirmed police officer of the appropriate city or town. The difference must be reported to the state
28 auditor, who shall pay the difference from the general fund to the pension trust fund ~~out of the premium~~
29 ~~tax collected on insurance sold in this state to insure against the risks enumerated in 19-18-512(3)~~ no later
30 than November 1. If the compensation of a newly confirmed police officer has not been set for the current

fiscal year in time to be included in the October 1 report to the state auditor, the division shall make any retroactive adjustments necessary to individual supplemental benefits after the current compensation has been determined and shall include these amounts in the next year's report for reimbursement at that time.

(4) The ~~premium tax~~ amount paid by the state auditor is statutorily appropriated, as provided in 17-7-502, for the payment of supplemental retirement benefits to eligible retired members and their survivors. This ~~payment~~ amount is in addition to the payment to be made by the state auditor under 19-9-702.

(5) If more than one dependent child is entitled to supplementary benefits under this section by virtue of the death of a common parent, the minimum benefit paid to the dependent children under this section must be determined as if there were one dependent child and the supplementary benefits must be paid to the dependent children collectively."

Section 23. Section 19-13-604, MCA, is amended to read:

"19-13-604. State contribution. The state shall make its contributions ~~through the state auditor from the premium taxes on the insurance risks enumerated in 19-18-512~~ general fund. These payments Payments must be made annually from the general fund to the pension trust fund after the end of each fiscal year but no later than November 1 ~~from the gross premium taxes after deduction for cancellations and returned premiums~~. The division shall notify the state auditor of the annual compensation, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid to all active members during the preceding year. The state's contribution is 24.21% of this total compensation. ~~As soon as practicable after receipt of the state contribution, the division shall deposit it in the pension trust fund.~~ The contributions are statutorily appropriated as provided in 17-7-502."

Section 24. Section 19-13-1006, MCA, is amended to read:

"19-13-1006. Supplement to retirement benefits for persons retiring before July 1, 1973. (1) The retirement system shall pay to each member retired before July 1, 1973, or the member's surviving spouse or dependent children a monthly retirement benefit of not less than one-half the regular monthly compensation paid to a confirmed active firefighter of the city that last employed the member as a firefighter, as provided each year in the budget of that city. If the city that last employed the member as a firefighter no longer employs a full-paid firefighter, the member's or survivor's benefit may not be less

1 than one-half the average regular monthly compensation paid to all newly confirmed full-paid firefighters,
 2 as provided each year in the budgets of those cities that participate in the retirement system and employ
 3 a full-paid firefighter. In the case of volunteer firefighters, the retirement benefit may not exceed \$75 per
 4 month. Distribution of the money provided for this purpose under ~~19-18-606(1)~~ subsection (2) must be
 5 made according to subsection ~~(2)~~ (3).

6 (2) The state auditor shall deposit the proceeds of the tax collected pursuant to 50-3-109(1)(b) in
 7 the general fund. The state auditor shall pay an amount equal to the proceeds of the tax from the general
 8 fund to the pension trust fund to be used to pay claims as provided in subsection (3). The payment is
 9 statutorily appropriated as provided in 17-7-502. If the amount paid is in excess of the amount necessary
 10 for the payment of claims as provided in subsection (3), the excess must be used to pay the supplementary
 11 benefits provided for in 19-13-1009.

12 ~~(2)(3)~~ (a) At the beginning of each fiscal year, the division shall request and, except as provided
 13 in subsection ~~(2)(b)~~ (3)(b), the state auditor shall ~~issue pay~~ pay from the state ~~special revenue~~ general fund and
 14 ~~deliver to the division pension trust fund~~ an amount certified to be equal to the total annual dollar difference
 15 between the total retirement benefits paid to all retirees or their surviving spouses or dependent children
 16 in the previous fiscal year and the total benefits payable on June 30, 1973. ~~The division shall deposit this~~
 17 ~~money into the pension trust fund.~~

18 (b) If ~~the amount of~~ insufficient money is ~~contained in the state special revenue fund to pay the~~
 19 ~~amount requested~~ paid in subsection ~~(2)(a)~~ (3)(a) is insufficient, the ~~auditor shall pay to the division the~~
 20 ~~balance contained in the state special revenue fund.~~ The division shall continue to request the payment of
 21 any portion of the amount requested under subsection (2)(a) (3)(a) that was not paid in previous fiscal years
 22 plus sufficient interest to reimburse the pension trust fund, which The amounts must be paid to the ~~division~~
 23 pension trust fund prior to determining whether sufficient ~~each remains in the special revenue fund taxes~~
 24 have been collected to make any amount available for payments ~~into the account established in 19-13-615~~
 25 of supplementary benefits provided for in 19-13-1009. The state auditor shall pay the ~~requests~~ amounts
 26 as premium tax money in the state ~~special revenue~~ general fund becomes available."

27
 28 **Section 25.** Section 19-13-1009, MCA, is amended to read:

29 **"19-13-1009. Supplement to retirement benefits for persons hired on or after July 1, 1981. (1)**

30 The division shall pay a supplemental benefit ~~from the account provided for in 19-13-615~~ to each member

1 hired on or after July 1, 1981, who has earned 20 years of membership service as an active firefighter or
2 to the member's surviving spouse or dependent children. Except as provided in subsection (2), the
3 supplemental benefit, when added to the service retirement benefit, must equal one-half the regular monthly
4 compensation paid to a newly confirmed full-paid active firefighter of the city that last employed the
5 member as a firefighter as provided each year in the budget of that city. If after a member retires, the city
6 that last employed the member no longer employs a full-paid firefighter, the member's supplemental benefit
7 must be calculated on the basis of the average monthly compensation paid to all newly confirmed full-paid
8 firefighters, as provided each year in the budgets of those cities that participate in the retirement system
9 and employ a full-paid firefighter.

10 (2) If the amount available ~~to the account~~ is insufficient to fully fund the supplemental benefit
11 provided for in subsection (1), the supplemental benefit for each eligible member or survivor must be
12 reduced by an equal percentage so that the amount ~~contained in the account~~ available for this purpose is
13 not exceeded."

14
15 **Section 26.** Section 19-17-301, MCA, is amended to read:

16 **"19-17-301. Fire insurance premium tax to be paid into pension trust fund.** The state auditor and
17 ~~ex officio commissioner of insurance~~ shall annually ~~deposit in~~ pay from the general fund to the pension trust
18 fund a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance
19 against risks enumerated in ~~19-18-512~~ 50-3-109. The sum must be computed before the amounts provided
20 for by 19-13-604, 19-13-1006, and 19-18-512 are deducted. The money must be used for the payment
21 of claims, benefits, and administrative costs as provided in this chapter. The money is statutorily
22 appropriated as provided in 17-7-502."

23
24 **Section 27.** Section 19-18-512, MCA, is amended to read:

25 **"19-18-512. State auditor ~~to pay -- payment to~~ association ~~out of insurance premium taxes~~.** (1)
26 After the end of the fiscal year, the state auditor shall issue and deliver the warrant described in this
27 subsection to the treasurer of ~~every~~ each city or town ~~which that~~ has a fire department relief association
28 entitled by law to receive payments. The warrant ~~shall~~ must be for the use and benefit of the association.
29 ~~It shall~~ The warrant must be for an amount equal to 1 1/2 mills of the total taxable value of the city or town
30 and ~~shall~~ must be paid out of the ~~premium taxes on insurance risks enumerated in subsection (3) collected~~

1 ~~by the state auditor~~ general fund. The payment is statutorily appropriated as provided in 17-7-502.

2 (2) ~~If the~~ The payment provided for in subsection (1) ~~is less than \$100, an additional payment shall~~
3 ~~be made from the same tax moneys so that the total amount received is~~ must be for at least \$100.

4 ~~(3) The risks referred to in subsection (1) are:~~

5 ~~(a) insurance of houses, buildings, and all other kinds of property against loss or damage by fire~~
6 ~~or other casualty;~~

7 ~~(b) all kinds of insurance on goods, merchandise, or other property in the course of transportation,~~
8 ~~whether by land, water, or air;~~

9 ~~(c) insurance against loss or damage to motor vehicles resulting from accident, collision, or marine~~
10 ~~and inland navigation and transportation perils;~~

11 ~~(d) insurance of growing crops against loss or damage resulting from hail or the elements;~~

12 ~~(e) insurance against loss or damage by water to any goods or premises arising from the breakage~~
13 ~~or leakage of sprinklers, pumps, or other apparatus;~~

14 ~~(f) insurance against loss or legal liability for loss because of damage to property caused by the~~
15 ~~use of teams or vehicles, whether by accident or collision or by explosion of any engine, tank, boiler, pipe,~~
16 ~~or tire of any vehicle; and~~

17 ~~(g) insurance against theft of the whole or any part of any vehicle."~~

18
19 **Section 28.** Section 19-19-205, MCA, is amended to read:

20 **"19-19-205. Actuarial valuation of police retirement fund.** (1) The city treasurer shall submit to
21 the department of administration before October 1 of each odd-numbered year all information requested
22 by the department necessary to complete an actuarial valuation of the city's police retirement fund. The
23 valuation shall must consider the actuarial soundness of the police retirement fund for the 2 preceding fiscal
24 years.

25 (2) The valuation ~~is to~~ must be prepared by a qualified actuary selected by the department. A
26 qualified actuary is a member of the American academy of actuaries or of any organization considered by
27 the department to have similar standards.

28 (3) In each fiscal year in which an actuarial valuation is prepared, the department shall submit to
29 the state auditor a request for payment of the expense incurred in securing the actuarial valuation. The
30 expense may not exceed \$6,000 in any fiscal year. The state auditor shall make payment to the actuary

1 designated in the request from the general fund. The payment is statutorily appropriated as provided in
2 17-7-502."

3
4 **Section 29.** Section 19-19-305, MCA, is amended to read:

5 "19-19-305. **Annual state payments to municipality with police department.** (1) After the end of
6 each fiscal year, the state auditor shall issue and deliver to the treasurer of each city and town in Montana
7 ~~which that~~ has a police department and ~~which that~~ is not a participant in the municipal police officers'
8 retirement system ~~his~~ a warrant for an amount computed in the same manner as the amount paid (or that
9 would be paid if an existing relief association met the legal requirements for payment) to cities and towns
10 for fire department relief associations pursuant to 19-18-512. The payment from the general fund is
11 statutorily appropriated as provided in 17-7-502.

12 (2) ~~The payments provided for by 19-19-205 and subsection (1) of this section shall be paid from~~
13 ~~the premium tax collected on insurance sold in this state to insure against the risks enumerated in~~
14 ~~19-18-512. Such payments may only be made after deductions have been made from the gross premium~~
15 ~~tax for cancellations and returned premiums.~~

16 ~~(3)~~ Each city or town ~~which that~~ has a police retirement fund shall deposit the payment to the
17 credit of its police retirement fund.

18 ~~(4)~~(3) Payments provided for in 19-19-205 and subsection (1) of this section are in addition to
19 those provided for in 19-19-301."
20

21 **Section 30.** Section 19-19-506, MCA, is amended to read:

22 "19-19-506. **Supplement to certain pensions.** (1) The payment for each fiscal year to the police
23 officers, spouses, or minor children described in subsections (2)(a) through (2)(c) may ~~be~~ not be less than
24 one-half of the salary paid in that fiscal year in the appropriate city or town to newly confirmed police
25 officers.

26 (2) On or before April 1 of each year, the board of trustees shall make a report to the state auditor
27 including the following information:

28 (a) the names of all police officers who are receiving payments from the police retirement fund of
29 the city or town as of the date of the report and who were receiving ~~such~~ the payments prior to July 1,
30 1975;

1 (b) the names of all spouses or minor children who are receiving payments from the police
2 retirement fund because of the death of a police officer who was receiving ~~such~~ payments prior to July 1,
3 1975;

4 (c) the names of all spouses or minor children who are receiving payments from the police
5 retirement fund and who were receiving ~~such~~ payments prior to July 1, 1975, or in the case of minor
6 children, whose parent, the spouse of a police officer, was receiving ~~such~~ payments prior to July 1, 1975;

7 (d) for the purpose of determining the base figure for the computations set forth in subsection (4),
8 the following information relating to the base fiscal year commencing July 1, 1976:

9 (i) the amount of the payments made in the base fiscal year to each police officer described in
10 subsection (2)(a);

11 (ii) the amount of the payments made in the base fiscal year to each spouse or minor child ~~for~~
12 ~~children~~ described in subsection (2)(b) or (2)(c);

13 (iii) upon the death after April 18, 1977, of any police officer on the retired list who was receiving
14 payments from the police retirement fund prior to July 1, 1975, and who is survived by a spouse or minor
15 ~~children~~ child entitled to receive payments ~~therefrom~~ from the police retirement fund, the amount ~~which~~
16 that would have been paid to an eligible spouse of ~~such~~ the police officer ~~had~~ if that spouse had been
17 receiving payments in the base fiscal year.

18 (3) Each fiscal year immediately after the adoption by a city or town having a police retirement fund
19 of its budget for that fiscal year, ~~each such~~ the city or town shall report to the state auditor the salary for
20 that fiscal year of a newly confirmed police officer of that city or town.

21 (4) The state auditor shall, upon receipt of the reports referred to in subsections (2) and (3),
22 compute the difference between each amount reported under subsections (2)(d)(i) through (2)(d)(iii) and
23 one-half the salary for the current fiscal year of a newly confirmed police officer of the appropriate city or
24 town. The difference ~~shall~~ must be paid by the state auditor out of the ~~premium tax collected on insurance~~
25 ~~as provided in 19-19-305(2),~~ general fund to the treasurer of the appropriate city or town at the same time
26 as and in addition to the payment to be made by the state auditor under 19-19-305(1). The payment is
27 statutorily appropriated as provided in 17-7-502.

28 (5) The treasurer of each city or town receiving funds under subsection (4) shall immediately
29 deposit them to the credit of the city or town's police retirement fund. The board of trustees of the fund
30 shall use the funds to supplement the monthly payments to persons described in subsections (2)(a) through

(2)(c) so that the requirements of subsection (1) are met.

(6) If more than one minor child is entitled to supplementary payments under this section by virtue of the death of a common parent police officer, the minimum payment to ~~such~~ the minor children under this section ~~shall~~ must be determined as if there were one ~~such~~ minor child and the supplementary payment ~~shall~~ must be made to the minor children collectively."

Section 31. Section 19-20-203, MCA, is amended to read:

"19-20-203. Officers and employees of retirement board. (1) It is the duty of the retirement board to:

- (a) elect a presiding officer from its membership;
- (b) appoint a secretary, who may be one of its members,
- (c) employ technical or administrative employees who are necessary for the transaction of the business of the retirement system and establish their compensation pursuant to Title 2, chapter 18; and
- (d) designate an actuary who meets the qualifications established by the retirement board to assist the retirement board with the technical actuarial aspects of the operation of the retirement system, which includes establishing mortality and service tables and making an actuarial investigation at least once every 5 years into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system.

(2) A quorum of the board is three members."

Section 32. Section 19-20-501, MCA, is amended to read:

"19-20-501. Financial administration of money. The members of the retirement board are the trustees of all money collected for the retirement system, and as trustees, they shall provide for the financial administration of the money as provided in Article VIII, section 15, of the Montana constitution in the following manner:

- (1) The money must be invested and reinvested by the state board of investments.
- (2) The retirement board annually shall establish the rate of regular interest.
- (3) The retirement board annually shall divide among the several reserves of the retirement system an amount equal to the average balance of the reserves during the preceding fiscal year multiplied by the rate of regular interest. In accordance with the provisions of 19-20-605(5), the amount to be credited to

1 each reserve must be allocated from the interest and other earnings on the money of the retirement system
2 actually realized during the preceding fiscal year, less the amount allocated to ~~the expense fund under the~~
3 ~~provisions of 19-20-606~~ administrative expenses. The administrative expenses of the retirement system
4 may not exceed 1.5% of retirement benefits paid.

5 (4) The state treasurer is the custodian of the collected retirement system money and of the
6 securities in which the money is invested.

7 (5) ~~All~~ For purposes of Article VIII, section 12, of the Montana constitution, all the reserves
8 established by part 6 of this chapter must be accounts in the pension trust fund type of the treasury fund
9 structure of the state.

10 (6) Benefits and refunds to eligible recipients are payable pursuant to a contract as contained in
11 statute. Unless specifically provided for by statute, the contract does not contain revisions to statutes after
12 the time of retirement or termination."

13
14 **Section 33.** Section 19-20-605, MCA, is amended to read:

15 **"19-20-605. Pension accumulation fund -- employer's contribution.** The pension accumulation fund
16 is the fund in which the reserves for payment of pensions and annuities must be accumulated and from
17 which pensions, annuities, and benefits must be paid to or on account of beneficiaries credited with prior
18 service. Contributions to and payments from the pension accumulation fund must be made as follows:

19 (1) Each employer shall pay into the pension accumulation fund an amount equal to 7.47% of the
20 earned compensation of each member employed during the whole or part of the preceding payroll period.

21 (2) If the employer is a district or community college district, the trustees shall budget and pay for
22 the employer's contribution under the provisions of 20-9-501.

23 (3) If the employer is the superintendent of public instruction, a public institution of the state of
24 Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the
25 legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's
26 contribution.

27 (4) If the employer is a county, the county commissioners shall budget and pay for the employer's
28 contribution in the manner provided by law for the adoption of a county budget and for payments under
29 the budget.

30 (5) All interest and other earnings realized on the money of the retirement system ~~shall~~ must be

credited to the pension accumulation fund, and the amount required to allow regular interest on the annuity savings fund ~~shall~~ must be transferred to that fund from the pension accumulation fund.

(6) All pensions, annuities, and benefits must be paid from the pension accumulation fund.

(7) The retirement board may, ~~in its discretion,~~ transfer from the pension accumulation fund to the expense fund an amount necessary to cover expenses of administration."

Section 34. Section 50-3-109, MCA, is amended to read:

"50-3-109. Tax on fire insurance premiums ~~for maintenance of state fire prevention and investigation activities of department of justice.~~ (1) Each insurer authorized to effect insurance on risks enumerated in ~~19-18-512~~ subsection (2) doing business in this state shall pay to the state auditor ~~and commissioner of insurance ex officio~~ during the month of February or March in each year, in addition to the taxes on premiums required by law to be paid by it, ~~a tax of 1%~~ taxes on the fire portion of the direct premiums on ~~such~~ the enumerated risks received during the calendar year next preceding after deducting cancellations and return premiums. The taxes are:

(a) 1% to be deposited as provided in 17-2-121; and

(b) 1 1/2% to be used for purposes of 19-13-1006.

(2) The risks referred to in subsection (1) are:

(a) insurance of houses, buildings, and all other kinds of property against loss or damage by fire or other casualty;

(b) all kinds of insurance on goods, merchandise, or other property in the course of transportation, whether by land, water, or air;

(c) insurance against loss or damage to motor vehicles resulting from accident, collision, or marine and inland navigation and transportation perils;

(d) insurance of growing crops against loss or damage resulting from hail or the elements;

(e) insurance against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps, or other apparatus;

(f) insurance against loss or legal liability for loss because of damage to property caused by the use of teams or vehicles, whether by accident or collision or by explosion of any engine, tank, boiler, pipe, or tire of any vehicle; and

(g) insurance against theft of the whole or any part of a vehicle."

1 **Section 35.** Section 61-3-321, MCA, is amended to read:

2 **"61-3-321. Registration fees of vehicles -- public-owned vehicles exempt from license or**
3 **registration fees -- disposition of fees.** (1) Registration or license fees must be paid upon registration or
4 reregistration of motor vehicles, trailers, housetrailers, and semitrailers, in accordance with this chapter,
5 as follows:

6 (a) motor vehicles weighing 2,850 pounds or under (other than motortrucks), \$5;

7 (b) motor vehicles weighing over 2,850 pounds (other than motortrucks), \$10;

8 (c) electrically driven passenger vehicles, \$10;

9 (d) all motorcycles and quadricycles, \$2;

10 (e) tractors or trucks, \$10;

11 (f) buses, which are classed as motortrucks, licensed accordingly;

12 (g) trailers and semitrailers less than 2,500 pounds declared weight and housetrailers of all weights,
13 \$2;

14 (h) trailers and semitrailers over 2,500 up to 6,000 pounds declared weight (except housetrailers),
15 \$5;

16 (i) trailers and semitrailers over 6,000 pounds declared weight, \$10, except trailers and semitrailers
17 registered in other jurisdictions and registered through a proportional registration agreement;

18 (j) trailers used exclusively in the transportation of logs in the forest or in the transportation of oil
19 and gas well machinery, road machinery, or bridge materials, new and secondhand, \$15 annually,
20 regardless of size or capacity.

21 (2) All rates are 25% higher for motor vehicles, trailers, and semitrailers that are not equipped with
22 pneumatic tires.

23 (3) "Tractor", as specified in this section, means any motor vehicle, except a passenger car, that
24 is used for towing a trailer or semitrailer.

25 (4) If any motor vehicle, housetrailer, trailer, or semitrailer is originally registered 6 months after
26 the time of registration as set by law, the registration or license fee for the remainder of the year is one-half
27 of the regular fee.

28 (5) An additional fee of \$5.25 a year for each registration of a vehicle, except trailers and
29 semitrailers registered in other jurisdictions and registered through a proportional registration agreement,
30 must be collected as a registration fee. Revenue from this fee must be forwarded by the respective county

1 treasurers to the state treasurer for deposit in the general fund. The department shall ~~distribute~~ pay an
2 amount equal to 25 cents from the each motor vehicle registration fee from the general fund to the pension
3 trust fund for payment of supplemental benefits provided for in 19-6-709.

4 (6) A fee of \$2 for each set of new number plates must be collected when number plates provided
5 for under 61-3-332(3) are issued. Revenue from this fee must be deposited as provided in subsection (5).

6 (7) The provisions of this part with respect to the payment of registration fees do not apply to and
7 are not binding upon motor vehicles, trailers, semitrailers, or tractors owned or controlled by the United
8 States of America or any state, county, city, or special district, as defined in 18-8-202.

9 (8) The provisions of this section relating to the payment of registration fees or new number plate
10 fees do not apply when number plates are transferred to a replacement vehicle under 61-3-317, 61-3-332,
11 or 61-3-335. (See compiler's comments for contingent termination of certain text.)"

12
13 **Section 36.** Section 76-13-114, MCA, is amended to read:

14 **"76-13-114. Disposition of fines.** Fines collected in a court of the state under this part or part 2,
15 except those collected in a justice's court, ~~shall~~ must be transferred to the state treasurer for deposit in the
16 ~~agency~~ state special revenue fund. Whenever a person is convicted in any court of a violation of this part
17 or part 2, the court may levy and collect as costs in the case the amount necessary to compensate the
18 county for the expenditures made in and for the prosecution of the offender. These costs when collected,
19 except those collected in a justice's court, ~~shall~~ must be deposited by the court with the proper county
20 treasurer for the benefit of the county."

21
22 **NEW SECTION. Section 37. Repealer.** Sections 19-9-208, 19-13-615, 19-18-513, 19-18-606, and
23 19-20-606, MCA, are repealed.

24
25 **NEW SECTION. Section 38. Effective date.** [This act] is effective July 1, 1997.

26 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0169, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising and clarifying the laws governing appropriations and the administration of state government finances; clarifying the treasury funds subject to appropriation; revising and clarifying the deposit of certain funds; revising the statutory appropriation of certain funds; conforming the administration of retirement systems to constitutional revisions; authorizing the Public Employees' Retirement Board to hire their own personnel; limiting the administrative expenses of the retirement systems.

Assumptions:

1. Appropriations for health insurance benefits and claims and for tort claims will not be statutory. These programs, covered by HB576, are non-budgeted and therefore statutory appropriations will no longer be required.
2. Recent constitutional changes require that pension funds no longer be subject to legislative appropriation. This legislation recognizes these constitutional changes and mandates that the administrative expenses of the state retirement systems not exceed 1.5% of retirement benefits paid.
3. HB 169 does not change or otherwise impact the administrative expenditures of the Public Employees' Retirement Division (PERD) and, therefore, the bill will have no fiscal impact on PERD.
4. HB 169 does not change or otherwise impact the administrative expenditures of the Teachers' Retirement System (TRS) and, therefore, the bill will have no fiscal impact on TRS.
5. If the provisions to conform the administration of the retirement systems to the Montana constitution are adopted, the total amount appropriated by the legislature in House Bill 2 would decrease by the amounts budgeted for the teachers' retirement board: FY 1998- \$994,113 and 1999 - \$778,979 and the public employees' retirement board: FY 1998- \$1,389,901 and 1999 - \$1,316,965.
6. This bill has no impact on the Department of Administration.
7. This bill has no impact on the Legislative Branch.

FISCAL IMPACT:

None.

Dave Lewis 1-11-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Tom Zook 1-13-97

TOM ZOOK, PRIMARY SPONSOR DATE
Fiscal Note for HB0169, as introduced

HB 169

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By CHAIRMAN TOM ZOOK, on January 30, 1997, at 3:00 p.m., in Room 312.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Edward J. "Ed" Grady, Vice Chairman (Majority) (R)
Rep. Joe Quilici, Vice Chairman (Minority) (D)
Rep. Ernest Bergsagel (R)
Rep. Roger DeBruycker (R)
Rep. Gary Feland (R)
Rep. Don Holland (R)
Rep. John Johnson (D)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Bob Keenan (R)
Rep. Matt McCann (D)
Rep. William T. "Red" Menahan (D)
Rep. Ray Peck (D)
Rep. Steve Vick (R)
Rep. William R. Wiseman (R)

Members Excused: Rep. Beverly Barnhart (D)
Rep. John Cobb (R)

Members Absent: None.

Staff Present: Clayton Schenck, Legislative Fiscal Division
Marjorie Peterson, Committee Secretary

Committee Business Summary:

Hearing: HB 6, HB 8, HB 11, HB 169
Executive Action: None.

HEARING ON HB 169

Opening Statement by Sponsor:

REP. TOM ZOOK, HD 3, Miles City, opened the hearing on HB 169, An act revising and clarifying the laws of governing appropriations and the administration of state government finances, clarifying treasury funds subject to appropriation, revising and clarifying the deposit of certain funds, revising statutory appropriation of certain funds, conforming the administration of retirement

systems to constitutional revisions, limiting the administrative expenses of the retirement systems. REP. ZOOK referred to the Legislative Finance committee's recommendations. EXHIBIT 1.

Proponents:

Kelly Jenkins, Public Employees Retirement Board, Helena. He offered his written testimony, a letter from Gregory Petesch, Legal Services Director, and background information from the Board. EXHIBITS 2, 3, 4.

{Tape: 1; Side: A; Approx. Tape Counter: 5.0.}

Terry Teichrow, Public Employees Retirement Board, Helena.

{Tape: 1; Side: A; Approx. Tape Counter: 12.0.}

Opponents:

Mick Robinson, Policy Director, Governor's Office, Helena.

{Tape: 1; Side: A; Approx. Tape Counter: 13.6.}

Informational:

Jerry LaChere, Directory, Montana Lottery, Helena.

{Tape: 1; Side: A; Approx. Tape Counter: 17.4.}

Questions From the Committee:

Kelly Jenkins offered information on Section 15, Public retirement system assets. EXHIBIT 5.

{Tape: 1; Side: A; Approx. Tape Counter: 19.7.}

Closing by Sponsor:

REP. ZOOK closed the hearing on HB 169.

{Tape: 1; Side: A; Approx. Tape Counter: 29.2.}

HEARING ON HB 11

Sponsor:

REP. MATT MCCANN, HD 92, Harlem, opened the hearing on HB 11, An act appropriating money to the Department of Commerce for financial assistance to local government infrastructure projects under the Treasure State Endowment Program, authorizing grants, authorizing Treasure State Endowment Program loans to be administered by Department of National Resources and Conservation.

{Tape: 1; Side: A; Approx. Tape Counter: 30.0.}

Proponents:

Ray Wadsworth, Montana Rural Water Systems, Inc. Mr. Wadsworth offered his written testimony. EXHIBIT 6.

{Tape: 1; Side: A; Approx. Tape Counter: 33.6.}

"Appropriation Issue" HB169

Explanation of the LFC Recommendations

A Report Prepared for the

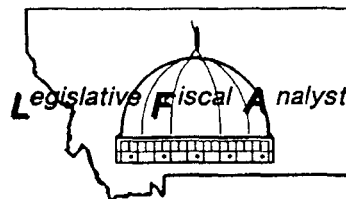
Sponsor

by

Roger Lloyd

Senior Fiscal Analyst

January 9, 1997



At the November meeting, the Legislative Finance Committee approved draft legislation addressing the issue of legislative appropriations to be introduced to the 55th legislature. This legislation was the result of a committee's philosophy of putting more funds under control of the legislative appropriation process and to clarify statute.

A summary of major and minor changes made by the bill, along with an explanation of each section, follows.

Major Changes

- The main thrust of the bill is amendments made to 17-8-101. These amendments put more funds under legislative appropriation control. These funds are:
 - ▶ tax revenue distributed to local governments
 - ▶ enterprise funds
 - ▶ debt service funds
- Due to recent Constitutional changes, pension funds are moved out of the treasury. They are not subject to appropriations. Article VIII, section 15 states:
"(1) Public retirement systems shall be funded on an actuarially sound basis. Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses.
(2) The governing boards of public retirement systems shall administer the system, including actuarial determinations, as fiduciaries of system participants and their beneficiaries." (Emphasis added)
- The bill clarifies that insurance premium taxes and motor vehicle registration fees are deposited to the general fund. Payments to pension funds from these revenue sources will be made from the general fund. There is no general fund impact with these amendments.

Minor Changes

The bulk of the bill are secondary changes needed because of the above amendments.

- ▶ Statutory appropriations are removed for:
 1. pension funds
 2. internal service funds
- ▶ Statutory appropriations are added for:
 1. payment of the state's contributions to pensions from the general fund and other funds
 2. payment of gas and oil taxes to local governments
 3. Federal Taylor Grazing Act money
- ▶ Pension administrative costs are no longer appropriated, but are limited to 1.5% of benefit payments.
- ▶ Out-dated pension sections are repealed.
- ▶ References to insurance premium taxes are combined into one statute.
- ▶ References to distribution of supplementary pension payments are combined and one

section is repealed.

- ▶ Article VIII, section 15 of the Montana Constitution is referenced in public employees' and teachers' retirement statutes. Payments of benefits are stated as being paid under contract. The Public Employees' Retirement Board is given authority to hire staff.

Section by Section

Section 1 The statutory appropriation for the state's self-insurance reserve fund is removed. It is an internal service fund.

Section 2 Since the Public Employee's Retirement Board is given constitutional directive to manage the pension funds, they are given to authority to hire their employees.

Section 3 The statutory appropriation for the state's health insurance reserve fund is removed. It is an internal service fund.

Section 4 A statutory appropriation is added for the distribution of oil and gas taxes to local governments. The fund type in which the money is accounted is changed from the agency fund to the state special revenue fund.

Section 5 This section clarifies that the treasury fund structure act implements the meaning of Article VIII, section 12 of the Montana Constitution (strict accountability of funds received and spent).

Section 6 This section clarifies that the treasury fund structure is to ensure strict accountability of expenditures (as required by the Constitution).

Section 7 Tax revenue distributed to local governments are accounted for in the state special revenue fund (a budgeted fund), rather than a fiduciary fund (non-budgeted). Currently, statutory appropriations are provided for most of these distributions.

Section 8 A conflict in statute on the deposit of insurance premium tax revenue is resolved. Current statutes direct all the revenue to be deposited in the general fund but statutes also reference deposits in the state special revenue fund. With this amendment, all the revenue goes to the general fund.

Section 9 Statute is clarified to deposit the Federal Taylor Grazing Act money in the federal special revenue fund.

Section 10 A statutory appropriation is provided to pay counties Federal Taylor Grazing Act money.

Section 11 The statutory appropriation for the Board of Investment to spend money to repair buildings is removed. It is an internal service fund.

Section 12 This section clears up an existing conflict in the budget amendment statutes by recognizing that certain state special revenue (from nonstate or nonfederal sources restricted by a contract, trust agreement, or donation) may be approved by the approving authority as a budget amendment without meeting the emergency requirements. Requests to spend private funds (not appropriated by the legislature) are to be given to the LFA.

Section 13 The list of valid statutory appropriations is amended to reflect the six statutory appropriations eliminated and the six added by the bill.

Section 14 This section clarifies that the statute implements the meaning of Article VIII, section 14 of the Montana Constitution (the section that addresses payment of funds under an appropriation). The section adds enterprise funds and debt service funds to the list of those that must be appropriated. It adds the legislative option that certain funds (internal service, expendable trust, agency funds, and state special revenue from private sources or under contract) may be paid out of the treasury under general laws or by appropriation. Pension funds are outside the treasury for appropriations purposes. Transfers of money to internal service funds must be authorized by the legislature.

Section 15 The Public Employees' Retirement Board rather than the Department of Administration is given authority to hire personnel. Employee compensation is to be set under the state pay and classification system.

Section 16 Pension administrative costs are capped at 1.5% of retirement benefits. Since pension funds are outside the treasury for appropriation purposes, references to appropriations and budget amendments are struck.

Section 17 This section recognizes recent amendments to the Montana Constitution that affects public employees' retirement pension funds. The statutory appropriation for pension benefits and administrative costs is eliminated. It is recognized that benefits are payable pursuant to a contract (the law in effect at the time of retirement).

Section 18 State contributions to judge's retirement are statutorily appropriated since pensions are outside the treasury.

Section 19 Clarification is added that the payment of \$0.25 of each motor vehicle registration fee (for Highway Patrol retirement) is from the general fund (as specified in 61-3-321(5)).

Section 20 State contributions to game warden retirement are statutorily appropriated since pensions are outside the treasury.

Section 21 State contributions to police retirement are statutorily appropriated from the general fund. Under the bill, insurance premium taxes are deposited to the general fund.

Section 22 Supplemental retirement benefits for police retirement are made from the general fund. This conforms with amendments made in section 8 and clears up the conflict in current statute on where insurance premium tax revenue is deposited.

Section 23 State contributions to firefighter retirement are statutorily appropriated from the general fund. Under the bill, insurance premium taxes are deposited to the general fund.

Section 24 Supplemental retirement benefits for police retirement are made from the general fund. This conforms with amendments made in section 8 and clears up the conflict in current statute on where insurance premium tax revenue is deposited. Valid portions of 19-18-606 (certain portions are no longer applicable) are incorporated into this section. Funding for the distribution is now together with how the distribution is to be made. Clarifying amendments are also included.

Section 25 This section strikes reference to a statute repealed by section 37.

Section 26 Volunteer firefighter retirement payments are paid from the general fund. This conforms with amendments made in section 8 and clears up the conflict in current statute on where insurance premium tax revenue is deposited. Reference to 19-13-1006 is added to reflect amendments in section 24.

Section 27 Firefighter retirement payments are paid from the general fund. This conforms with amendments made in section 8 and clears up the conflict in current statute on where insurance premium tax revenue is deposited. The list of insurance risks to be taxed are moved to section 34 where the tax is.

Section 28 Payments for local police retirement actuarial valuation are paid from the general fund. This conforms with amendments made in section 8 and clears up the conflict in current statute on where insurance premium tax revenue is deposited.

Section 29 Local police retirement payments are paid from the general fund. This conforms with amendments made in section 8 and clears up the conflict in current statute on where insurance premium tax revenue is deposited. Redundant language is struck.

Section 30 Supplemental local police retirement payments are paid from the general fund. This conforms with amendments made in section 8 and clears up the conflict in current statute on where insurance premium tax revenue is deposited.

Section 31 Teachers' retirement employee compensation is to be set under the state pay and classification system.

Section 32 This section recognizes recent amendments to the Montana Constitution that affects teachers' retirement pension funds. Pension administrative costs are capped at 1.5% of retirement benefits. It is recognized that benefits are payable pursuant to a contract (the law in

effect at the time of retirement).

Section 33 Clarification is added that administrative expense are to be paid out of the expense fund.

Section 34 The list of insurance risks to be taxed are moved into the section where the tax is.

Section 35 This section clarifies that an amount equal to \$0.25 of motor vehicle registrations is paid from the general fund to Highway Patrol pension fund. This conforms with amendments made in section 19.

Section 36 The fund type in which the portable sawmill fee is accounted is changed from the agency fund to the state special revenue fund.

Section 37 This section repeals five sections:

- ▶ 19-9-208 is repealed because the statute is no longer being used.
- ▶ 19-13-615 is repealed because applicable sections are consolidated into 19-13-1006.
- ▶ 19-18-513 is repealed because under amendments in other sections, all premium tax revenue is deposited in the general fund rather than the state special revenue fund.
- ▶ 19-18-606 is repealed because: 1) the last payment to eligible retirees was made in 1984; and 2) remaining applicable portions are consolidated into 19-13-1006 and 50-3-109.
- ▶ 19-20-606 is repealed because pension administrative costs are not appropriated.

H:\DATA\WP\SB378_97\AI_BILL.116

HOUSE OF REPRESENTATIVES
55TH LEGISLATIVE SESSION - 1997

ROLL CALL
APPROPRIATIONS COMMITTEE

DATE 1-30-97

NAME	PRESENT	ABSENT	EXCUSED
Rep. Tom Zook, Chairman	✓		
Rep. Ed Grady, Vice Chairman, Majority	✓		
Rep. Joe Quilici, Vice Chairman, Minority	✓		
Rep. Beverly Barnhart			✓
Rep. Ernest Bergsagel	✓		
Rep. John Cobb			✓
Rep. Roger DeBruycker	✓		
Rep. Gary Feland	✓		
Rep. Don Holland	✓		
Rep. John Johnson	✓		
Rep. Royal Johnson	✓		
Rep. Betty Lou Kasten	✓		
Rep. Bob Keenan	✓		
Rep. Matt McCann	✓		
Rep. Red Menahan	✓		
Rep. Ray Peck	✓		
Rep. Steve Vick	✓		
Rep. Bill Wiseman	✓		

APPROPRIATIONS COMMITTEE VISITOR REGISTER

DATE 1-30-97 BILL NOS. HB 6, HB 8, HB 11, HB 169

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH COMMITTEE SECRETARY.

EXHIBIT 2
DATE 1-30-97
HB 169

HOUSE BILL 169
TESTIMONY BEFORE THE HOUSE APPROPRIATIONS COMMITTEE
ON BEHALF OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

January 30, 1997

Kelly A. Jenkins

Chairman Zook, Committee members: My name is Kelly A. Jenkins. I am a Department of Administration attorney. I represent the Public Employees' Retirement Board. I am here to testify on behalf of the Public Employees' Retirement Board; **not** the Department of Administration.

The Public Employees' Retirement Board supports the budget changes contained in HB 169. Eliminating the statutory appropriations and taking pension administrative costs off budget are appropriate because the funding is entirely from the pension trust funds. The legislature will still receive full accountability. All retirement systems are given a full compliance audit every biennium by outside auditors and all systems provide detailed, audited financial reports every year. As trustees of the retirement systems, the Board is held to the highest legal standard of prudent administration.

The Board's constitutionally mandated duties as trustees of the retirement systems are at the heart of another change supported by the Legislative Finance Committee. Trustees must have a level of control sufficient to permit them to perform their duties effectively and efficiently. Trustee obligations both require and justify trustee control of necessary staff. The Board's right to hire, fire and discipline necessary staff (contained in Sections 2 and 13 of HB 169) is required to have effective control of pension trust fund administration.

Two sessions ago, in response to direct and indirect raids on pension trust funds in California and other states, the legislature took action to preserve pension trust funds for payment of retirement benefits. The legislature proposed a constitutional amendment to confirm retirement boards as the sole administrators of retirement systems. The voters approved.

The Legislative Finance Committee received a memorandum from Greg Petesch on the issue of Board authority to control necessary personnel. In Greg's opinion, current statutory language is constitutionally "suspect", while the Committee's proposal to give key employee hire/fire authority to the Public Employees' Retirement Board is legally defensible. Those familiar with the responsibilities of a trustee know the Committee's proposal is necessary.

The trend in pension administration is to allow a Board of trustees the authority necessary to administer pension trust funds, free of interference. The National Conference of Commissioners of Uniform State Laws (drafters of the Uniform Commercial Code, Uniform Marriage and Divorce Act, Uniform Probate Code, and many other good government proposals), in its continuing effort to discourage federal preemption of state laws, is drafting model legislation for the management of public pension funds, which should be finalized by this summer. The centerpiece of their proposal is independence of the Board of trustees, guaranteed by Board control of necessary employees.

Allowing the Retirement Board the authority to meet its constitutional duties does not set a precedent for other boards or agency to ask for the same authority. Only two other state boards have a constitutionally mandated standard of care (as fiduciary trustees) and constitutionally distinct responsibilities (to administer for the benefit of members and beneficiaries) from the rest of the executive branch. Those Boards, the Teachers' Retirement System Board and the Board of Investments, already have the statutory authority to hire their own staffs.

The PER Board meets once a month. The Board's Personnel Committee meets as necessary. Does the Board need to meet every day to provide staff supervision? Does the legislature need to meet throughout the year to properly supervise the legislative staff? **Corporation Boards across America would be surprised to hear unless Boards meet constantly, they should not be able to hire and fire their key employees.** Certainly the Teachers' Retirement System Board and Board of Investments have not had a problem. **The difference is focus. The Board has one job.** The Board would directly supervise a limited number of people. **The Department has many jobs, many other employees, and many competing, sometimes conflicting, interests.**

Retirement systems are not simply an extension of state government personnel policy. The Public Employees' Retirement Board administers statutory retirement plans for about 450 local governments, on behalf of more local employees than state employees. Of course, the Board has every incentive to cooperate in the design of retirement system changes. **And the legislature has every reason to want objective, independent information and analysis.** The legislature creates and amends retirement systems, establishes benefit levels, and determines funding methods. An independent retirement Board can assist the legislature in meeting its duties by providing objective financial information. The legislature knows the importance of independent financial information, even when there is a good working relationship with the Governor. A Retirement Board is most useful to the legislature and the executive branch when the Board can be objective.

HB169 fulfills the promise of the constitutional language adopted by the legislature and the voters, the pension trust funds will be protected and pension administration will be efficient and effective.

EXHIBIT 3
DATE 1-30-97
HB 169
COUNCIL MEMBERS
LARRY HAL GRINDE
VICE CHAIRMAN
DON LARSON
WILLIAM "RED" MENAHAN
JOHN A. MERCER
THOMAS E. NELSON
RAY PECK



Council Senate Members
J.D. LYNCH
CHAIRMAN
AL BISHOP
ROBERT "BOB" BROWN
B.F. "CHRIS" CHRISTIAENS
BRUCE D. CRIPPEN
MIKE HALLIGAN

Executive Director
ROBERT B. PERSON

Legal Services Director
GREGORY J. PETESCH

Legal Researcher
DOUG STERNBERG

**Montana Legislative
Services Division**
Legal Services Office
Room 138 • State Capitol
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Attorneys
BARTLEY J. CAMPBELL
LEE HEIMAN
VALENCIA LAINE
JOHN MACMASTER
EDDYE MCCLURE
DAVID S. NISS

September 30, 1996

RECEIVED

SEP 30 1996

Roger Lloyd
Senior Fiscal Analyst
Legislative Finance Division
Room 105, State Capitol
Helena, Montana 59620-1711

**LEGISLATIVE
FISCAL ANALYST**

Dear Mr. Lloyd:

I am writing in response to your recent request on behalf of the Legislative Finance Committee. The Committee has requested an opinion concerning the impact of the 1994 enactment of Article VIII, section 15, of the Montana Constitution on the hiring of staff to administer the Public Employees' Retirement System. Article VIII, section 15, of the Montana Constitution provides:

Section 15. Public retirement system assets. (1) Public retirement systems shall be funded on an actuarially sound basis. Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses.

(2) The governing boards of public retirement systems shall administer the system, including actuarial determinations, as fiduciaries of system participants and their beneficiaries.

The effects of the enactment of Article VIII, section 15, of the Montana Constitution are multifaceted. The effects are as follows:

- (1) public retirement systems must be funded on an actuarially sound basis;
- (2) public retirement system assets are denominated as trust assets to be held for the purposes of:
 - (a) providing benefits to participants and their beneficiaries; and
 - (b) defraying administrative expenses;

(3) public retirement system assets are protected against encumbrance, diversion, reduction, or termination;

(4) the governing boards of the public retirement systems are given constitutional status;

(5) the administration of the public retirement systems, including actuarial determinations, is assigned to the governing boards of the public retirement systems; and

(6) in administering the public retirement systems, the governing boards of the public retirement systems are placed in a fiduciary status with regard to system participants and their beneficiaries.

The constitution is a limit on and not a grant of power to the Legislature. State ex rel. DuFresne v. Leslie, 100 Mont. 449, 453, 50 P.2d 959 (1935). The Legislature is clearly precluded from assigning the administration of public retirement system assets to any entity other than the governing boards of the public retirement systems. The Montana Supreme Court in Gibson v. Western Fire Insurance Co., 210 Mont. 267, 682 P.2d 725 (1984), held that the duty of a fiduciary to a beneficiary is no less than that of a trustee.

Section 72-34-113, MCA, concerning trustee duties, provides:

72-34-113. Duty not to delegate. (1) The trustee has a duty not to delegate to others the performance of acts that the trustee can reasonably be required personally to perform and may not transfer the office of trustee to another person nor delegate the entire administration of the trust to a cotrustee or other person.

(2) In a case where a trustee has properly delegated a matter to an agent, cotrustee, or other person, the trustee has a duty to exercise general supervision over the person performing the delegated matter. (Emphasis added)

Section 72-34-113(2), MCA, is derived from comment k to section 171 of the Restatement (second) of Trusts. In discussing the powers of a trustee, in Trusts, 6th Ed. (1987), at page 330, Bogert states:

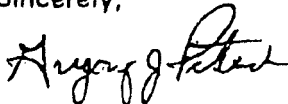
Assuming that a trustee is justified in delegating the performance of a certain act for the trust, he must exercise reasonable prudence and care in employing the assistant. He must make a reasonable investigation as to the honesty and efficiency of the agent or servant, must give him adequate instructions, must supervise and check the performance of the work delegated, and in the case of advice must exercise his own judgment as to its soundness, so far as he is able.

Mr. Lloyd
September 30, 1996
Page 3

Pursuant to section 72-34-113, MCA, it is the trustee who has the authority to delegate responsibility and the duty to supervise personnel performing the delegated function. Section 19-2-404, MCA, provides that the Department of Administration shall appoint and fix the compensation of the administrator and other necessary employees to assist the Public Employees' Retirement Board in administering the retirement systems. Section 19-20-203, MCA, provides that the Teachers' Retirement Board appoints or employs personnel necessary for the administration of the retirement system. Section 19-20-203, MCA, appears to conform to section 72-34-113, MCA, and Article VIII, section 15, of the Montana Constitution, while section 19-2-404, MCA, appears to conflict with the statutory and constitutional provisions. It is virtually impossible to justify the disparate statutes governing the hiring of personnel for the retirement boards in light of Article VIII, section 15, of the Montana Constitution, placing the boards in the same trustee and fiduciary status. Allowing the boards that are constitutionally assigned the duty of administering the public retirement systems to hire their own personnel is legally defensible. A delegation of authority from the Legislature to an Executive Branch agency to hire personnel for an entity given constitutional recognition, duties, and fiduciary responsibility for administration is suspect.

If you have any questions or if I can provide additional information, please feel free to contact me.

Sincerely,



Gregory J. Petesch
Director of Legal Services

155 6274gpxa.

THE PUBLIC EMPLOYEES' RETIREMENT BOARD

Background Information from the Board

January 30, 1997

I. WHAT THE RETIREMENT BOARD DOES.

A well run pension system benefits the members, local government and state government.

A. The Board Administers 8 State and Local Employee Retirement Systems..

Over **14,000 Retirees** (about 13,300 in Montana)

Almost **30,000 Active Local and State Members**

56% of active members are local government employees.

The Retirement Board has the constitutional and and statutory responsibility to adminster eight retirement systems as trustee for the members and beneficiaries of the system. *Montana Constitution, Article VIII, Section 15; §19-2-504, MCA.*

There are separate retirement systems for city police, local firefighters, volunteer firefighters, county sheriffs, and four other groups of local and state public employees.

Municipal Police Officers' Retirement System (MPORS)

Sheriffs' Retirement System (SRS)

Volunteer Firefighters' Compensation Act (VFCA)

Firefighters' Unified Retirement System (FURS)

Game Wardens' Retirement System (GWRS)

Judges' Retirement System (JRS)

Highway Patrol Officers' Retirement System (HPORS)

Public Employees' Retirement System (PERS)

B. The Board Relieves Local and State Government Employers of Pension Administration Responsibility.

Pension administration is more difficult and complex every year. Each retirement system must comply with complex federal tax laws, technical accounting standards, and other legal restrictions. Retirement systems must evolve to meet new state and federal legal requirements without compromising retirement benefits.

The Retirement Board provides uniform, unbiased expertise to the legislature, the executive branch and approximately 450 local governments.

More than 230 schools and school districts

56 counties

75 political subdivisions (e.g., Great Falls Airport, Malta Irrigation District)

86 cities and towns

6 colleges and universities

38 state agencies

C. The Board is Accountable to Members and the Public.

The Board has six members, appointed by the Governor to staggered five year terms. Current members:

Carol Carey	Clerk of District Court	Ekalaka
Fred Flanders	Bank President	Helena
Carol Lambert	Rancher	Hammond
Troy McGee	Retired	Helena
Eleanor Pratt	County Commissioner	Glasgow
Terry Teichrow	Education Specialist	Helena

All retirement systems are given a full compliance audit every biennium by outside auditors and all systems provide detailed, audited financial reports every year. The financial reports account for expenses of administration and show the financial condition of each system. **As trustees of the systems, the board is held to the highest legal standard of prudent administration.** As a result of the Board's fiscal prudence, the administration of benefits is extremely efficient and, with a Board requested fix to the Judges' Retirement System, all systems will be financially sound.

D. The Board Develops, Interprets and Applies Pension Laws.

The Retirement Board provides expertise to develop legislative and executive proposals in the area of pension law. A cooperatively designed change is more easily implemented and will withstand legal challenge.

The Board interprets pension laws and writes rules to determine appropriate membership, proper employer status, service credit, employer and employee contributions, retirement benefits, and many other **technical aspects of pension administration.** The Board judges medical disabilities to determine whether a member qualifies for disability retirement.

E. The Board Approves Actuarial Assumptions; Monitors Investments.

The Board's financial concerns are measured in the length of a life, not a term of office. The financial strength of a retirement system depends on financial projections decades in the future. **The Board, using unbiased actuarial professionals, projects of the amount of contributions and earnings on the trust fund which can reasonably be anticipated and the amount necessary to fund benefits.** The Public Employees' Retirement **Board cooperates with the Montana Board of Investments to develop investment guidelines,** to insure safe investment and to receive necessary return.

Total Assets Held in Trust: \$2.1 billion
Annual Revenues: \$337 million
Annual Expenditures: \$114 million

II. WHY THE RETIREMENT BOARD SHOULD CONTROL ITS STAFF.

A Legislative Council attorney has told the joint interim Finance Committee that control of the Retirement Board's personnel by the Department of Administration is suspect under the Montana Constitution. The Board agrees that it has constitutional authority to control its own staff.

Others might suggest that the Constitution does not specifically give the Board authority to control its own staff. However, no one argues that the Board has unique constitutional duties. Because of the Board's constitutional responsibilities, it only makes sense that the Board be allowed the authority necessary to meet its duties.

The Board has responsibilities as a trustee. Trustees must have a level of control sufficient to permit them to perform their duties effectively and efficiently. Trustees are different from other government employees because they are subject to an extensive and stringent set of fiduciary obligations to retirement system participants and beneficiaries. **These obligations both require and justify some level of trustee control.**

Control is required because it permits trustees to perform their duties in the face of pressure from others who may not be subject to trustee obligations. Trustees must have staff which can not be pressured to ignore duties to retirement system members and beneficiaries.

Trustee judgment and actions are controlled by more demanding fiduciary standards than other governmental employees. Not even elected officials are subject to the strict standards which the Board is constitutionally obligated to meet. Independent staff is required to meet the Board's duties.

A. Trustee Control Is Necessary for Good Management.

Trustee control contemplated by the Montana Constitution serves the Legislature's interest in effective and efficient management. Mismanagement presents obvious political hazards and, in the long run, may result in lower benefits, higher contributions, or both.

Under the Constitution the Board, as trustee, and the Board's staff, as agents of the trustee, have a fiduciary duty to act effectively and efficiently. Board control of necessary staff insures Board and staff can fulfill their duties.

B. The Board Is a Good Partner.

A Retirement Board is most useful to the legislature and the executive branch when the Board can be objective.

The legislature has responsibilities to the retirement systems also. The legislature creates and amends retirement systems, establishes benefit levels, and determines funding methods. An independent retirement Board can assist the legislature in meeting its duties by providing objective financial information.

The legislature knows the importance of independent financial information, even when there is a good working relationship with the Governor.

C. Pension Administration Should Not Be Dictated by Political Pressure.

The Constitutional amendment approved by the legislature and the voters wisely placed responsibility for pension fund administration with the non-political retirement Board. The Board must be allowed control of staff to meet its responsibilities.

The Retirement Board is responsible to the members and beneficiaries of the retirement systems to be sure that promised benefits can be paid and will be paid.

Sometimes it is good politics to think short term. That is never good pension administration.

EXAMPLES OF CONFLICT OF INTEREST

A legislative committee proposes a statutory change. The Retirement Board agrees with the change but an executive branch agency does not agree. How strong will Board staff advocate the Board position if staff promotions and compensation depend on the executive branch agency?

A Department settles a wrongful discharge lawsuit by promising retirement benefits which wouldn't otherwise be payable. The Board would like to challenge the settlement agreement but is denied legal counsel for the challenge.

The Budget Office would like to give state employees a cash incentive to retire and asks Board staff to estimate the number of people who would retire. Board staff knows that local governments and employees did not contribute to the trust fund to pay executive branch operating expenses. But staff also knows under current law the Board can not fire them, but the executive branch can.

III. WHY RETIREMENT BOARD AUTHORITY IS NOT A PROBLEM.

A. The Board Is Fully Accountable.

All retirement systems are given a full compliance audit every biennium by outside auditors and all systems provide detailed, audited financial reports every year.

As trustees of the systems, the board is held to the highest legal standard of prudent administration. The constitution requires the Board to act as fiduciaries to protect the integrity of the pension trust fund.

B. The Board Administers the Legislature's Plan.

The Board's responsibility is to insure the legislature's retirement plan is effectively and efficiently executed.

The Board must follow the legislature's retirement plan unless the plan is unconstitutional.

C. No Other State Agency Is Like the Board.

The sky is not falling. **Allowing the Retirement Board the authority to meet its constitutional duties does not set a precedent for other boards or agency to ask for the same authority.**

Only two other state boards have a constitutionally mandated standard of care (as fiduciary trustees) and constitutionally distinct responsibilities (to administer for the benefit of members and beneficiaries) from the rest of the executive branch. Those Boards, the Teachers' Retirement System Board and the Board of Investments, already have the statutory authority to hire their own staffs.

D. The Board Is Most Useful If Independent.

Retirement systems are not simply an extension of state government personnel policy. The Board administers the statutory retirement plans for more local employees than state employees.

Of course, the Board has every incentive to cooperate in the design of retirement system changes. And **the legislature has every reason to want objective, independent information and analysis.**

E. The Board Has One Duty, One Focus.

The trend in pension administration is to allow a Board of trustees the authority necessary to administer pension trust funds, free of interference. The National Conference of Commissioners of Uniform State Laws (drafters of the Uniform Commercial Code, Uniform Marriage and Divorce Act, Uniform Probate Code, and many other good government proposals), in its continuing effort to discourage federal preemption of state laws, is drafting model legislation for the management of public pension funds, which should be finalized by this summer. The centerpiece of their proposal is independence of the Board of trustees, guaranteed by Board control of necessary employees.

The PER Board meets once a month. The Board has a Personnel Committee which meets as necessary. The Department of Administration has suggested the Department is better able to deal with personnel because the Department is always in Helena. The legislature could be excused for viewing such an argument from the executive branch with some skepticism. **Corporation Boards across America would be surprised to hear unless Boards meet constantly, they should not be able to hire and fire their key employees.** Certainly the Teachers' Retirement System Board and Board of Investments have not had a problem.

The difference is focus. The Board has one job. The Board would directly supervise a limited number of people. **The Department has many jobs and sometimes conflicting interests.** The Department supervises ten times as many employees.

EXHIBIT 5
DATE 1-30-97
HB 169

As adopted, Nov. 11, 1994.

Section 15. Public retirement system assets. (1) Public retirement systems shall be funded on an actuarially sound basis. Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses.

(2) The governing boards of public retirement systems shall administer the system, including actuarial determinations, as fiduciaries of system participants and their beneficiaries.

History: En. Sec. 2, Const. Amend. No. 25, approved Nov. 8, 1994.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By CHAIRMAN TOM ZOOK, on March 24, 1997, at 8:00 a.m., in Room 312-2.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Edward J. "Ed" Grady, Vice Chairman (Majority) (R)
Rep. Joe Quilici, Vice Chairman (Minority) (D)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)
Rep. John Cobb (R)
Rep. Roger DeBruycker (R)
Rep. Gary Feland (R)
Rep. Don Holland (R)
Rep. John Johnson (D)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Bob Keenan (R)
Rep. Matt McCann (D)
Rep. William T. "Red" Menahan (D)
Rep. Ray Peck (D)
Rep. Steve Vick (R)
Rep. William R. Wiseman (R)

Members Excused: None.

Members Absent: None.

Staff Present: Clayton Schenck, Legislative Fiscal Analyst
Marjorie Peterson, Committee Secretary

Committee Business Summary:

Hearing: None.
Executive Action: HB 166 DO PASS AS AMENDED,
HB 169 DO PASS AS AMENDED,
HB 177 DO PASS AS AMENDED,
HB 298 DO PASS AS AMENDED,
HB 312 TABLED,
HB 398 DO PASS AS AMENDED,
HB 500 DO PASS AS AMENDED,
HB 567 DO PASS AS AMENDED,
HB 584 DO PASS AS AMENDED,
HJR 24 DO PASS

{Tape: 5; Side: A; Approx. Tape Counter: 19.5.}

Motion/Vote: REP. BERGSAGEL moved Grady amendment. Motion carried 12 - 6, with REPS. DEBRUYCKER, COBB, BARNHART, KASTEN, PECK, and MCCANN voting no.

{Tape: 5; Side: A; Approx. Tape Counter: 21.4.}

Motion/Vote: REP. BERGSAGEL moved HB 166 Do Pass As Amended. Motion carried 13 - 5, with REPS. KASTEN, DEBRUYCKER, BARNHART, PECK, and MCCANN voting no.

{Tape: 5; Side: A; Approx. Tape Counter: 22.6.}

EXECUTIVE ACTION ON HB 169

Motion: REP. BERGSAGEL moved HB 169 Do Pass.

{Tape: 5; Side: A; Approx. Tape Counter: 23.3.}

Motion/Vote: REP. BERGSAGEL moved amendment HB016901.alm Do Pass. Motion carried unanimously.

{Tape: 5; Side: A; Approx. Tape Counter: 24.2.}

Motion/Vote: REP. BERGSAGEL moved HB 169 Do Pass As Amended. Motion carried unanimously.

{Tape: 5; Side: A; Approx. Tape Counter: 29.3.}



HOUSE STANDING COMMITTEE REPORT

March 25, 1997

Page 1 of 3

Mr. Speaker: We, the committee on Appropriations report that **House Bill 169** (first reading copy -- white) do pass as amended.

Signed: _____

Tom Zook
Tom Zook, Chair

And, that such amendments read:

1. Title, line 12.
Following: "15-36-324,"
Insert: "15-36-325,"
2. Page 7, following line 17.
Insert: "**Section 5.** Section 15-36-325, MCA, is amended to read
"**15-36-325. (Effective January 1, 1996) Local government severance tax payments for calendar year 1995 production -- distribution of payments -- not subject to I-105 limitations.** (1) The local government severance tax imposed under 15-36-101, as that section read before January 1, 1996, for calendar year 1995 production is due as follows:
 - (a) for oil and natural gas production occurring in the first calendar quarter of 1995, the tax is due May 31, 1996;
 - (b) for oil and natural gas production occurring in the second calendar quarter of 1995, the tax is due May 31, 1997;
 - (c) for oil and natural gas production occurring in the third calendar quarter of 1995, the tax is due May 31, 1998; and
 - (d) for oil and natural gas production occurring in the fourth calendar quarter of 1995, the tax is due May 31, 1999.(2) (a) If the taxpayer pays the entire local government severance tax liability for calendar year 1995 on or before June 30, 1996, the taxpayer must receive a 6% reduction in the total local government severance tax liability.
(b) Any payment of local government severance taxes for calendar year 1995 made on or before June 30, 1997, does not accrue interest. Any payment of local

Committee Vote:
Yes 18, No 0.

650932SC.Hgd

3-25-97

government severance taxes for calendar year 1995 made after June 30, 1997, must accrue interest at the rate of 1% a month or fraction of a month from July 1, 1997, to the date of payment. Any payment for the third quarter of 1995 received after May 31, 1998, and any payment for the fourth quarter of 1995 received after May 31, 1999, is subject to the late payment penalty provisions in 15-36-311.

(c) In the case of the dissolution of the operator or a change in the operator of any lease or unit, any unpaid local government severance tax for calendar year 1995 becomes due on the date of dissolution or on the date of the change in operator. The operator is subject to the provisions of subsection (2)(a) regarding the 6% tax liability reduction or the provisions of subsection (2)(b) regarding interest and penalties.

(3) The department shall determine the amount of tax collected under subsections (1) and (2) from within each taxing unit.

(4) For purposes of the distribution of local government severance taxes collected under this section, the department shall use the unit value of oil and gas for each taxing unit as determined in 15-36-323.

(5) The local government severance tax must be deposited in the agency state special revenue fund in the state treasury and transferred to the county for distribution as provided in subsection (6).

(6) For the purpose of the distribution of the local government severance tax for calendar year 1995 production, the department shall adjust the unit value determined under this section according to the ratio that the local government severance taxes collected during the quarters for which the distribution occurs plus penalties and interest on delinquent local government severance taxes bears to the total liability for local government severance taxes for the quarters for which the distribution occurs. The taxes must be calculated and distributed as follows:

(a) By July 31 of each of the years 1996, 1997, 1998, and 1999, the department shall calculate and distribute to each eligible county the amount of local government severance tax for calendar year 1995 production, determined by multiplying the unit value, as adjusted in this subsection (6), by the units of production on which the local government severance tax was owed during calendar year 1995 production.

(b) Any amount by which the total tax liability exceeds or is less than the total distributions determined in subsection (6)(a) must be calculated and distributed in the following manner:

(i) The excess amount or shortage must be divided by the total distribution determined for that period to obtain an excess or shortage percentage.

(ii) The excess percentage must be multiplied by the distribution to each taxing unit, and this amount must be added to the distribution to each respective taxing unit.

(iii) The shortage percentage must be multiplied by the distribution to each taxing unit, and this amount must be subtracted from the distribution to each respective taxing unit.

(7) (a) The county treasurer shall distribute the money received under subsection

(6) between the county and school taxing units. The distribution between county and school taxing units is the ratio of the number of mills levied for fiscal year 1990 against 1988 production in each taxing unit for the county and schools, including the county equalization levies that were in effect under 20-9-331 and 20-9-333 as those sections read on July 1, 1989, and the university 6-mill levy imposed under 20-25-423, except that a distribution may not be made to a municipal taxing unit or the state equalization aid levy imposed under 20-9-360. Distribution of money for the county equalization levies and the university levy must be remitted to the state by the county treasurer. The amounts distributed under subsections (7)(b) and (7)(c) are for the exclusive use of county and school taxing units.

(b) The county treasurer shall deposit the money from subsection (7)(a) allocated to county levies to the oil and gas tax accelerated fund.

(c) The trustees of a school district may allocate any payment received under subsection (7)(a) to any budget fund of the district or to the miscellaneous programs fund established in 20-9-507. The trustees shall direct the county treasurer to deposit the local government severance tax payments under this section to the funds of the district in accordance with the allocations determined by the trustees.

(8) Local government severance tax payments to a county pursuant to this section are not subject to the limitations of Title 15, chapter 10, part 4. Payments of local government severance tax pursuant to this section may not be used for county classification purposes under 7-1-2111 and may not be considered in the determination of bonding limits under 7-7-2101, 7-7-2203, 7-14-2524, and 7-16-2327.

(9) The distribution to taxing units under this section is statutorily appropriated as provided in 17-7-502."

Renumber: subsequent sections

3. Page 16, line 3.
Following: "15-36-324,"
Insert: "15-36-325;"

-END-

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on April 10, 1997, at 7:05 a.m., in Room 108.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Larry Baer (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. James H. "Jim" Burnett (R)
Sen. B.F. "Chris" Christiaens (D)
Sen. Eve Franklin (D)
Sen. Loren Jenkins (R)
Sen. Greg Jergeson (D)
Sen. John "J.D." Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Miller (R)
Sen. Arnie A. Mohl (R)
Sen. Linda J. Nelson (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: None

Members Absent: None

Staff Present: Taryn Purdy, Legislative Fiscal Division
Sharon Cummings, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 169, 4/2/97; HB 166,
4/2/97; HB 281, 4/2/97;
HB 17, 4/2/97
Executive Action: HB 166, BCCAA; HB 281, BCC;
HB 17, Failed; HB 5, BCCAA;
HB 14, BCCAA

SEN. LINDA NELSON How is this money dispensed, do they apply to the Department of Labor and Industry (DLI)? REP. RYAN They apply through the Office of Public Instruction.

SEN. NELSON How long have we been doing this? Are we increasing the amount in this? How much can a person receive? REP. RYAN We've been doing this for at least 15 years. This is an increase over last biennium's money but less than in years past. Most of this money is used to train instructors to teach the different trades.

SEN. KEN MILLER Do all of the apprenticeship instructors have to have training such as this? REP. RYAN No. Apprentices have on the job and classroom training. This is to help the instructors become better classroom teachers.

SEN. MILLER Who decides who get this training? Why can't the students pay for this training or do they pay other fees? REP. RYAN All apprenticeship programs are registered and approved by DLI. Requirements are laid out for each trade by DLI and the industry. Most students pay the entire cost of training. This is mainly money used for training their instructors.

SEN. MILLER Are these apprentices getting paid while they are working? REP. RYAN Yes, most work 40 hours per week depending on the trade they are in.

SEN. LOREN JENKINS Language has been stricken out on page 2, can you explain that? REP. RYAN This amendment was put on during House Appropriations.

Closing by Sponsor:

REP. RYAN I feel this is an appropriate funding source for this program. These inspections are done by people who have been through an apprenticeship. I believe there is plenty of money available for this. I urge a do pass on HB 281.

{Tape: 1; Side: B; Approx. Time Count: 8:04; Comments: None.}

HEARING ON HB 169

Sponsor: REP. TOM ZOOK, HD 2, MILES CITY

Proponents: Kelly Jenkins, Department of Administration
Terry Teidevan, Public Employees Retirement Board

Opponents: Steve Bender, Office of Budget and Program Planning

Opening Statement by Sponsor:

REP. TOM ZOOK, HD 3, MILES CITY This bill came out of the Finance Committee and is putting money under the control of the legislative appropriations process. It also clarifies statute.

We removed and added some statutory appropriations. There will be coordination amendments for this bill. I won't reject any amendments this committee puts on HB 169.

Proponents' Testimony:

Kelly Jenkins, Department of Administration (DOA) Testimony handed in. (EXHIBIT #16)

Terry Teidevan, Public Employees Retirement Board We brought this issue to the legislature 2 years ago and are back again this session with it. PERS has a division manager and an attorney who have 2 bosses and it is difficult for them to make a decision between the two. This bill will allow the Board to manage the organization the way it should be with a fiduciary responsibility that keeps us in check. This bill also makes the salaries of PERS management and staff comply with the state pay plan. I encourage a do pass.

{Tape: 1; Side: B; Approx. Time Count: 8:15; Comments: None.}

Opponents' Testimony:

Steve Bender, Office of Budget and Program Planning I rise as an opponent on behalf of the Governor. The Governor objects to the change in statute on the governance of the PERS system and I offer an amendment to strike one section of the bill. (EXHIBIT #17) I'd hate to see the bill derailed by this issue which is a subject that is totally unrelated to the appropriation law and has been rejected on its own merits by a previous legislature.

Questions From Committee Members and Responses: None

{Tape: 1; Side: B; Approx. Time Count: 8:17; Comments: None.}

Closing by Sponsor:

REP. ZOOK closes.

{Tape: 1; Side: B; Approx. Time Count: 8:55; Comments: None.}

EXECUTIVE ACTION ON HB 14

Motion: SEN. J.D. LYNCH MOVES HB 14 BE CONCURRED IN. (EXHIBIT #18) handed out.

Amendment: Amendment #hb001401.agp. (EXHIBIT #19)

Motion: SEN. BECK MOVES TO AMEND HB 14 WITH AMENDMENT #HB001401.AGP.

Discussion: SEN. BECK The purpose of this amendment is to try and salvage the arts trust account by bonding for the purchase of Virginia and Nevada cities. We will save money by bonding rather

HOUSE BILL 169
TESTIMONY BEFORE THE SENATE FINANCE AND CLAIMS COMMITTEE
ON BEHALF OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

April 10, 1997

Kelly A. Jenkins

Chairman Swysgood, Committee members: My name is Kelly A. Jenkins. I am a Department of Administration attorney. I represent the Public Employees' Retirement Board. I am here to testify on behalf of the Public Employees' Retirement Board; **not** the Department of Administration.

The Public Employees' Retirement Board supports the HB169 budget changes related to the Board. Eliminating the statutory appropriations and taking pension administrative costs off budget are appropriate because the funding is entirely from the pension trust funds. The legislature will still receive full accountability. All retirement systems are given a full compliance audit every biennium by outside auditors and all systems provide detailed, audited financial reports every year. As trustees of the retirement systems, the Board is held to the highest legal standard of prudent administration.

The Board's constitutionally mandated duties as trustees of the retirement systems are at the heart of another change supported by the Legislative Finance Committee. Trustees must have a level of control sufficient to permit them to perform their duties effectively and efficiently. Trustee obligations both require and justify trustee control of necessary staff. The Board's right to hire, fire and discipline necessary staff (contained in Sections 2 and 13 of HB 169) is required to have effective control of pension trust fund administration.

Two sessions ago, in response to direct and indirect raids on pension trust funds in California and other states, the legislature took action to preserve pension trust funds for payment of retirement benefits. The legislature, with only six dissenting votes in both houses, proposed a constitutional amendment to confirm retirement boards as the sole administrators of retirement systems. The voters approved overwhelmingly.

The Legislative Finance Committee received a memorandum from Greg Petesch on the issue of Board authority to control necessary personnel. In Greg's opinion, current statutory language is constitutionally "suspect", while the Committee's proposal to give key employee hire/fire authority to the Public Employees' Retirement Board is legally defensible. Those familiar with the responsibilities of a trustee know the Committee's proposal is necessary.

The trend in pension administration is to allow a Board of trustees the authority necessary to administer pension trust funds, free of interference. The National Conference of Commissioners of Uniform State Laws (drafters of the Uniform Commercial Code, Uniform Marriage and Divorce Act, Uniform Probate Code, and many other good government proposals), in its continuing effort to discourage federal preemption of state laws, is drafting model legislation for the management of public pension funds, which should be finalized by this summer. The centerpiece of their proposal is independence of the Board of trustees, guaranteed by Board control of necessary employees.

Allowing the Retirement Board the authority to meet its constitutional duties does not set a precedent for other boards to ask for the same authority. Only two other state boards have a constitutionally mandated standard of care (as fiduciary trustees) and constitutionally distinct responsibilities (to administer for the benefit of members and beneficiaries) from the rest of the executive branch. Those Boards, the Teachers' Retirement System Board and the Board of Investments, already have statutory authority to hire their own staffs.

The PER Board meets once a month. The Board's Personnel Committee meets as necessary. Does the Board need to meet every day to provide staff supervision? Does the legislature need to meet throughout the year to properly supervise the legislative staff? **Corporation Boards across America would be surprised to hear unless Boards meet constantly, they should not be able to hire and fire their key employees.** Certainly the Teachers' Retirement System Board and Board of Investments have not had a problem. **The difference is focus. The Board has one job.** The Board would directly supervise a limited number of people. **The Department has many jobs, many other employees, and many competing, sometimes conflicting, interests.**

Retirement systems are not simply an extension of state government personnel policy. The Public Employees' Retirement Board administers statutory retirement plans for about 450 local governments, on behalf of more local employees than state employees. Of course, the Board has every incentive to cooperate in the design of retirement system changes. **And the legislature has every reason to want objective, independent information and analysis.** The legislature creates and amends retirement systems, establishes benefit levels, and determines funding methods. An independent retirement Board can assist the legislature in meeting its duties by providing objective financial information. The legislature knows the importance of independent financial information, even when there is a good working relationship with the Governor. A Retirement Board is most useful to the legislature and the executive branch when the Board can be objective.

HB169 fulfills the promise of the constitutional language adopted by the legislature and the voters, the pension trust funds will be protected and pension administration will be efficient and effective.

Proposed Amendments to House Bill No. 169 (HB169)
Third Reading Copy

1. Title, line 10.
Strike: "AUTHORIZING" through "PERSONNEL;"
2. Title, line 12.
Strike: "2-15-1009;"
3. Page 2, lines 9 through 22.
Strike: section 2 in its entirety
Renumber: subsequent sections
4. Page 20, line 26.
Strike: "board"
Insert: "department, in consultation with the board,"

DATE 4/10/97

SENATE COMMITTEE ON Finance & Claims

BILLS BEING HEARD TODAY: HB 169, HB 166, HB 281,
HB 17

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
JOHN H WOOT	MTNG	HB 17	✓	
GERALD F. TRAXINGER	MT ANG	HB 17	✓	
ROGER K LARSEN	Mont Air Natl Guard	HB 17	✓	
Donald N Reicher +	MT Air Natl Guard	HB 17	✓	
JOSEPH S. FOSTER	MT Army Natl Guard	HB 17	✓	
Doris Romanisko	MT Operating Eng JATT	HB 281	✓	
THOMAS WENRHEIM	E.U.O.E. APPRENTICESHIP	HB 281	✓	
DAN POUHOTT	MTA P	HB 166		✓
Kelly A. JENKINS	PUBLIC EMPLOYEES RETIREMENT	HB 169	✓	
DARRELL HOLZEN	MT ST AFL-CIO	HB 281	✓	
Beth Baker	Dept of Justice	HB 166	✓/amend	
Anthony Morrison	MT ARMY NATL Guard	HB 17	✓	
Kevin Collins	MT ARMY NATL GUARD	HB 17	✓	
QuAnn Jones	MT Operating Eng JATT	HB 281	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
elly Poley	210th PSC	HB 17	X	
Kyssa Hunt	MTAP - DPHHS	HB 166		X
Ben Howard	MTAP-	HB 166		X
ROGER HAKAN	OFFICER & ENLISTED ASSOC OF N.G. OF MT	HB 17	X	
PRINCE FISHER	MT JOINT CARPENTERS APPRNT. TRAINING CENTER	HB 281	X	
Jerry Orsini	mt Building Trades	HB 281	X	
Charles L. Lerner	H. D #68	HB 281	X	
Terry Teideman	FERB	HB 169	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on April 11, 1997, at 8:04 a.m., in Room 108.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Larry Baer (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. James H. "Jim" Burnett (R)
Sen. B.F. "Chris" Christiaens (D)
Sen. Eve Franklin (D)
Sen. Loren Jenkins (R)
Sen. Greg Jergeson (D)
Sen. John "J.D." Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Miller (R)
Sen. Arnie A. Mohl (R)
Sen. Linda J. Nelson (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: None

Members Absent: None

Staff Present: Taryn Purdy, Legislative Fiscal Division
Sharon Cummings, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 615, 4/8/97
Executive Action: HB 615, BCC; HB 584, BCCAA;
HB 578, BCCAA; HB 169, BCCAA;
HB 17, BCC; HB 166, BCCAA;
HB 610, BCCAA; HB 405 Tabled

HEARING ON HB 615

Sponsor: REP. JOHN COBB, HD 50, AUGUSTA

SEN. LYNCH Are we eliminating the board with this amendment?
CHAIRMAN SWYSGOOD No, we are extending their sunset for 2 years. We're hoping they figure a way to get out of this and save the state the money we've invested.

Vote: THE MOTION THAT HB 578 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY. SEN. TAYLOR will carry HB 578.

{Tape: 1; Side: B; Approx. Time Count: 9:29; Comments: None.}

EXECUTIVE ACTION ON HB 169

Amendments: Amendment #hb016901.a35. (EXHIBIT #9)

Motion: SEN. BECK MOVES TO AMEND HB 169 WITH AMENDMENT #HB016901.A35.

Discussion: Taryn Purdy, Legislative Fiscal Division (LFD) This bill defines which funds come out of the state treasury. The primary impetus for the bill was to make statute conform to the constitution on this. This amendment takes enterprise funds and debt service fund type off the budget. (EXHIBIT #10) handed out.

SEN. KEATING Sometimes there is confusion between enterprise and proprietary funds and confusion between proprietary and state special funds. I have concern about that and am trying to think this amendment through to see what we are doing. **Ms. Purdy** I think your point about proprietary funds and state special is a good one as it relates to internal service type funds wherein an agency charges another agency to perform a service and gets paid for that. Enterprise funds are generally a little cleaner and have to do with those time when someone voluntarily participates in whatever the state agency is doing. Lottery and hail insurance are examples of enterprise funds.

SEN. JENKINS Would you give me an answer to this question?
Connie Griffith, Department of Administration Proprietary funds consist of two types of funds: internal service; and enterprise. These types of funds essentially act like a business unlike state special where you may be receiving fees from other places and people but you are not trying to cover all your cost like a business covers their costs. Proprietary funds cover all operating costs including depreciation. Internal service funds are for services between agencies and within the government. The enterprise fund is when you are providing services and/or products that you are selling to outsiders, an example of this is the prison industry.

Vote: THE MOTION TO AMEND HB 169 WITH AMENDMENT #JB016901.A35 CARRIED UNANIMOUSLY.

{Tape: 1; Side: B; Approx. Time Count: 9:37; Comments: None.}

Amendment: Amendment #hb016904.a05. (EXHIBIT #11)

Motion: SEN. FRANKLIN MOVES TO AMEND HB 169 WITH AMENDMENT #HB016904.A05.

Discussion: Ms. Purdy Water court judges and game wardens need to be transferred into the pension fund. This amendment puts the appropriate language into this bill.

Vote: THE MOTION TO AMEND HB 169 WITH AMENDMENT #HB016904.A05 CARRIED UNANIMOUSLY.

Motion: SEN. MOHL MOVES TO AMEND HB 169 WITH (EXHIBIT #12).

Discussion: Ms. Purdy This amendment makes the 30% carry forward of unexpended appropriations permanent. The amount of money requested for carry over in FY94-95 appropriations was \$5.3 million. The agencies have criteria to meet and the budget office needs to approve it.

SEN. KEATING Is this a carry over within the biennium or between bienniums? Ms. Purdy Between bienniums.

SEN. BECK Does this extend the base budget? Ms. Purdy No, it comes out of the base.

SEN. FRANKLIN Is there a stipulation that the 30% show on the accounting? Ms. Purdy It shows on the accounting records but the base budget you see will not show this.

CHAIRMAN SWYSGOOD If they transferred this from FY98 to FY99 and we worked off the FY98 base, then that would be a reduction of 30% of unexpended funds in the base so we would have less base to work from. Ms. Purdy You use the FY98 base to budget from, if they had \$100 left over from FY97 and carried over 30% or \$30 and spent it in FY98, when you look at the FY98 expenditures that \$30 will not be there. This give the agency more spending authority in the next year than they would have had. It does not impact their spending in the year from which they moved the money.

SEN. KEATING Does it ever show up in the base? Ms. Purdy It shows up in total expenditures but we pull it out for base purposes.

SEN. DALE MAHLUM This gives agencies the chance to hold the money and make wise decisions for the future. I think it is a good business position for them.

SEN. TAYLOR I agree. I would like to know if this has done what it was supposed to do. Ms. Purdy It depends on the criteria you are using. There is evidence that the agencies have a little more confidence in their ending fund balance and therefore are not going to spend more of it at the end in the anticipation of carrying it forward.

SEN. JERGESON They may ask for that money as a present law base adjustment or a new proposal in the next session but it would be explained in the budget.

SEN. LARRY BAER Is this carry over subtracted from the base or is it just money they spend that doesn't show up anywhere? **Ms. Purdy** They spend it but it doesn't show up in the base.

SEN. KEATING This would reduce anticipated reversions, do you have any idea how much anticipated reversions would be reduced by this action? **Steve Bender, Office of Budget and Program Planning (OBPP)** This will affect reversions but the amount of General Fund has been fairly trivial. We require a plan to use this money, they have to certify that they will use this money to improve the productivity of their operation. This is not automatic.

Vote: THE MOTION TO AMEND HB 169 WITH (EXHIBIT #12) CARRIED WITH SEN. BAER VOTING NO.

Amendment: Amendment #hb016902.a35. (EXHIBIT #13)

Motion: SEN. BECK MOVES TO AMEND HB 169 WITH AMENDMENT #HB016902.A35.

Discussion: Ms. Purdy explains amendment.

CHAIRMAN SWYSGOOD This amendment says agencies can only transfer 30% of one fund, not all.

Vote: THE MOTION TO AMEND HB 169 WITH (EXHIBIT #13) CARRIED UNANIMOUSLY.

{Tape: 2; Side: A; Approx. Time Count: 9:53; Comments: None.}

Motion: SEN. MAHLUM MOVES TO AMEND HB 169 WITH (EXHIBIT #14).

Discussion: Ms. Purdy You set the maximum rate for internal services funds that an agency can charge during the next biennium, those funds are off budget. This amendment allows the approving authority to adjust those rates during the interim.

CHAIRMAN SWYSGOOD For example, the Department of Administration, Information Services Division (ISD) charges a fee for the use of the computer system. That fee is set by the legislature and we appropriate money to the agencies based on those rates. This amendment would allow adjustment of these rates by the OBPP during the interim.

Ms. Griffith Should an increase in mail costs occur during the interim they cannot increase their fees to cover that increase. We've never had to increase our rates in the past.

SEN. TAYLOR Could the Department of Justice increase their fees because their lawyer costs more or something like that? **Ms. Griffith** This amendment is very specific, they would have to have substantial cost increases.

Motion: **SEN. LYNCH MOVES TO AMEND (EXHIBIT #14) BY STRIKING "PROVIDED COMMENTS ON" AND INSERTING "APPROVED".**

Discussion: **CHAIRMAN SWYSGOOD** We might have a problem because the authority granted to the Legislative Finance Committee doesn't carry any weight.

SEN. LYNCH WITHDRAWS THE MOTION TO AMEND (EXHIBIT #14).

SEN. WATERMAN Please explain item #2 of (EXHIBIT #14) **Ms. Purdy** That is an enterprise fund that is allowed in the budget amendment process now but is really not necessary. **Mr. Bender** The Historical Society is the only one that pass through their entries cost under the budget amendment law. I propose striking the Historical Society so any enterprise fund can pass through their entries cost for sales to the public.

SEN. JENKINS Where will the agencies come up with the money to cover the cost increase if it is made? **CHAIRMAN SWYSGOOD** They eat it.

SEN. JERGESON Does this include fees charged to Secretary of State, for example? **Ms. Purdy** These refer to the enterprise service fund that must be approved by the legislature in the general appropriations act. Many of the enterprise funds in the Secretary of State are not reviewed by the legislature. This would be things like ISD's computer charges, motor pool, etc.

Vote: **THE MOTION TO AMEND HB 169 WITH (EXHIBIT #14) FAILED 1-16 ON ROLL CALL VOTE.**

Amendment: Amendment #hb016901.ash. (EXHIBIT #15)

Motion/Vote: **SEN. LYNCH MOVES TO AMEND HB 169 WITH AMENDMENT #HB016901.ASH. THE MOTION CARRIED UNANIMOUSLY.**

Motion: **SEN. BECK MOVES TO AMEND HB 169 WITH (EXHIBIT #16).**

Discussion: **Ms. Purdy** This amendment removes the retirement system's authority to hire and fire staff.

SEN. LYNCH I want them to have that right, do I want to pass the amendment? **Ms. Purdy** No.

CHAIRMAN SWYSGOOD We heard the presentation by the board attorney, we need the corresponding view presented to us.

Judy Browning, Governor's Office This is not a huge item in the grand scheme of things, however it is important to the Governor

because it is a precedent. The notion that having a fiduciary duty means you cut lose the hiring and firing of employees from the traditional three branches of government is a notion the Governor doesn't agree with. He thinks this is creating a bad precedent.

SEN. LYNCH Micromanaging is crazy, they should be able to hire their own people. This amendment doesn't make sense.

Vote: THE MOTION TO AMEND HB 169 WITH (EXHIBIT #16) FAILED 6-11 ON ROLL CALL VOTE.

Motion: SEN. BECK MOVES HB 169 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY. SEN. VAN VALKENBURG will carry HB 169.

{Tape: 2; Side: A; Approx. Time Count: 10:08; Comments: None.}

EXECUTIVE ACTION ON HB 584

Motion: SEN. BECK MOVES HB 584 BE CONCURRED IN.

Amendment: Amendment #hb058401.agp. (EXHIBIT #17)

Motion: SEN. BECK MOVES TO AMEND HB 584 WITH AMENDMENT #HB058401.AGP.

Discussion: CHAIRMAN SWYSGOOD This bill creates the orphan share account for cleanup. This amendment takes \$150,000 out of each fiscal year from the orphan shares and gives it to the funding mechanism on the total maximum daily load (TMDL) bill that deals with the streams the EPA is requiring the state to address.

SEN. TAYLOR This is an important amendment as it is important that we do this. The TMDL is a start in the right direction to identify and cleanup the environment. It is a critical piece of legislation that we need to fund.

SEN. KEATING I need to know the revenue flow through the orphan share account, environmental rehab and prevention account and the TMDL's. It seems to me HB 284 passed for a particular purpose and now we're using HB 284 funding for the TMDL. **Mark Simonich, Department of Environmental Quality (DEQ)** We have been looking for ways to insure there is adequate funding for TMDL's, this amendment in HB 584 amends HB 284 so that instead of putting \$250,000 of fines and penalty money into HB 284 annually, only \$100,000 would go into the rehabilitation (ERPA) account through HB 284 and the other \$150,000 per year would be available for funding TMDL's.

SEN. KEATING What is the source of the money in HB 284? **Mr. Simonich** The funding for HB 284 was to be generally fines and penalties, forfeited bonds for mine reclamation are also a small

Amendments to House Bill No. 169
Third Reading Copy

Requested by Senator Swysgood
For the Committee on Finance and Claims

Prepared by Taryn Purdy
April 9, 1997

1. Page 19, line 12.
Strike: "the enterprise fund type, the debt service fund type,"
2. Page 19, line 15.
Following: the first "~~type,~~"
Insert: "enterprise fund type, debt service fund type,"
3. Page 20, line 21.
Following: "~~service~~"
Insert: "and internal service"
4. Page 20, lines 22 and 23.
Following: "~~appropriation~~"
Strike: the remainder of line 22 through "treasury" on line 23
Insert: "used as a part of a program that is not an enterprise or
internal service function and that otherwise requires an
appropriation"

This amendment eliminates the requirement that enterprise funds and the debt service fund type be appropriated. Current law stipulates that enterprise funds do not require an appropriation unless part of a program that is not an enterprise function and otherwise requires an appropriation.

**HB169 requires Retirement Board control of staff
BECAUSE:**

- HB169 takes retirement benefits and administration cost (paid out of pension trust funds) off-budget.
- The PER Board is required by the Montana Constitution to act as a trustee of the pension funds.
- The Department of Administration and OBPP have no such responsibility.
- So it is logical to give the PER Board authority to administer amounts off-budget according to its responsibility.
- As Rep. Zook said, without clear statutory authority, the PER Board's job is nearly impossible -- he wouldn't take the job without the language in HB169.

Rep. Zook's well considered language should not be changed.

After significant discussion of the PER Board responsibility and authority at every stage, HB169 was APPROVED:

- By the Legislative Finance Committee (only 2 dissenting votes)
- By the House Appropriations Committee (unanimously)
- By the House 67-33
(a number of Democrats defected from a second reading vote of 82-15, because of an unrelated concern in HB169)

This is the first time since CA-25 (the Pension Protection Act) this issue has been considered by legislature.

Now the Montana Constitution:

- makes the Board responsible for administration of pension trust funds and
- sets the limits of Board actions, requiring the Board to act as trustees.

The PER Board language in HB169 fulfills the constitutional promise of CA-25 (the Public Pension Protection Act), that administration of pension benefits and pension trust funds will not become a political tool of the executive branch.

THE MONTANA CONSTITUTION

ARTICLE VIII

As amended, 1994.

Section 15. Public retirement system assets. (1) Public retirement systems shall be funded on an actuarially sound basis. Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses.

(2) The governing boards of public retirement systems shall administer the system, including actuarial determinations, as fiduciaries of system participants and their beneficiaries.

History: En. Sec. 2, Const. Amend. No. 25, approved Nov. 8, 1994.

Amendments to House Bill No. 169
Third Reading Copy

Requested by Senator Franklin
For the Committee on Finance and Claims

Prepared by Roger Lloyd
April 2, 1997

1. Page 18, line 19.

Strike: "19-5-404;"

Strike: "19-8-504;"

2. Page 22, lines 17 and 18.

Strike: "The state contributions in this section are statutorily appropriated as provided in 17-7-502."

Insert: "The judiciary shall include in its budget and request for legislative appropriations an amount necessary to defray the state's portion of the costs of this section."

3. Page 24, line 3.

Strike: "The payment is statutorily appropriated as provided in 17-7-502."

Insert: "The department of fish, wildlife, and parks shall include in its budget and request for legislative appropriations an amount necessary to defray the state's portion of the costs of this section."

Amendments to House Bill 169
Third Reading Copy

Requested by OBPP
For Senate Finance and Claims

Prepared by Steve Bender
April 9, 1997

1. Title, line 16.
Strike: "AND"

Title, line 17.

Following: "MCA"

Insert: " AND SECTION 13, CHAPTER 23, SPECIAL LAWS OF NOVEMBER 1993"

Page 36, line 8.

Following line 8.

Insert: "NEW SECTION. Section 39. Repealer. Section 13, Chapter 23, special laws of November 1993 is repealed."

Renumber subsequent section.

Page 36, line 10.

Following: "1997"

Insert: ", except that [section 39] is effective on passage and approval"

Explanation:

The purpose of this amendment is to repeal the sunset on the ability of non-university system agencies to carry forward 30% of unexpended appropriations provided for in 17-7-304(4). The OBPP believes this temporary provision has worked to reduce budget "burning" at fiscal year end.

Amendments to House Bill No. 169
Third Reading Copy

SENATE FINANCE AND CLAIMS
AMENDMENT NO. 13
DATE 4/11/97
BILL NO. HB169

For the Committee on Finance and Claims

Prepared by Taryn Purdy
April 9, 1997

1. Title, line 11.

Following: "SYSTEMS;"

Insert: "CLARIFYING APPROPRIATIONS CARRYOVER RESTRICTIONS;"

2. Title, line 13.

Following: "17-6-201,"

Insert: "17-7-304,"

3. Page 16, following line 24.

Insert: "Section 13. Section 17-7-304, MCA, is amended to read:

"17-7-304. (Temporary) Disposal of unexpended appropriations.

(1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) For the 2 years following the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be spent for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by

the office of budget and program planning. (Terminates July 1, 1997-- sec. 13, Ch. 23, Sp. L. November 1993.)

17-7-304. (Effective July 1, 1997) Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated."

Renumber: subsequent sections

Amendments to House Bill 169
Third Reading Copy

Requested by OBPP
For Senate Finance and Claims

Prepared by Steve Bender
April 9, 1997

1. Page 17, lines 2 and 3.

Following: "service"

Strike remainder of lines 2 and 3.

Insert: "and enterprise funds as provided in 17-8-101."

2. Page 17, line 4.

Strike: "Montana historical society"

3. Page 20, line 15.

Following: "biennium."

Insert: "Fees and charges may not exceed the level approved by the legislature in the general appropriation act unless the approving authority certifies to the legislative finance committee that an increase is necessary to pass through increased costs of goods held for resale or because of unanticipated factors not under the requesting agency's control. The approving authority may not approve the agency request until the legislative finance committee has reviewed and provided comments on the request. Increased fees and charges may not increase the projected fund balance approved by the legislature."

Explanation:

The amendment is intended to allow budget amendment flexibility for internal service and enterprise funds.

Amendments to House Bill No. 169
Third Reading Copy

For the Committee on Senate Finance and Claims

Prepared by Sheri Heffelfinger
April 10, 1997

1. Page 36.

Following: line 5

Insert:

"NEW SECTION. Section 39. Coordination instructions. (1)
If House Bill No. 170 is passed and approved and if contains a new [section 4] providing for state contributions to the public employees' retirement system on behalf of local governments, then:

(a) the new [section 4 of House Bill No. 170] shall read:

"Section 4. State contributions for local government and school district employers. The state shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation of members employed by local government entities and school districts on and after [the effective date of this act]. The division shall certify amounts due under this section on a monthly basis, and the state treasurer shall transfer those amounts to the pension trust fund within 1 week. The payment is statutorily appropriated as provided in 17-7-502."; and

(b) [section 14 of this act], amending 17-7-502, shall read:

"Section 14. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: ~~2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304; 18-11-112; 19-2-502; 19-5-404; [section 4 of House Bill No. 170]; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-13-604; 19-13-1006; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-~~

204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001.)"

(2) If either House Bill No. 173 or House Bill No. 430, is passed and approved, or if both are passed and approved, and if either or both repeal 19-13-1006, then [section 27 of this act], amending 19-17-301, shall read:

"Section 27. Section 19-17-301, MCA, is amended to read:

"19-17-301. **Fire insurance premium tax to be paid into pension trust fund.** The state auditor ~~and ex-officio commissioner of insurance~~ shall annually ~~deposit in pay from the general fund~~ to the pension trust fund a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against risks enumerated in ~~19-18-512~~ 50-3-109. The sum must be computed before the amounts provided for by 19-13-604 and 19-18-512 are deducted. The money must be used for the payment of claims, benefits, and administrative costs as provided in this chapter. The money is statutorily appropriated as provided in 17-7-502.""

Renumber subsequent sections.

Proposed Amendments to House Bill No. 169 (HB169)

Third Reading Copy

1. Title, line 10.
Strike: "AUTHORIZING" through "PERSONNEL;"
2. Title, line 12.
Strike: "2-15-1009;"
3. Page 2, lines 9 through 22.
Strike: section 2 in its entirety
Renumber: subsequent sections
4. Page 20, line 26.
Strike: "board"
Insert: "department, in consultation with the board,"

MONTANA SENATE
1997 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE

ROLL CALL

DATE

4/11/97

NAME	PRESENT	ABSENT	EXCUSED
SEN. CHUCK SWYSGOOD, CHAIRMAN	✓		
SEN. TOM KEATING, VICE CHAIRMAN	✓		
SEN. LARRY BAER	✓		
SEN. TOM BECK	✓		
SEN. JIM BURNETT	✓		
SEN. B.V. "CHRIS" CHRISTIAENS	✓		
SEN. EVE FRANKLIN	✓		
SEN. LOREN JENKINS	✓		
SEN. GREG JERGESON	✓		
SEN. J. D. LYNCH	✓		
SEN. DALE MAHLUM	✓		
SEN. KEN MILLER	✓		
SEN. ARNIE MOHL	✓		
SEN. LINDA NELSON	✓		
SEN. MIKE TAYLOR	✓		
SEN. DARYL TOEWS	✓		
SEN. MIGNON WATERMAN	✓		

SEN:1997
wp.rollcall.man
CS-09



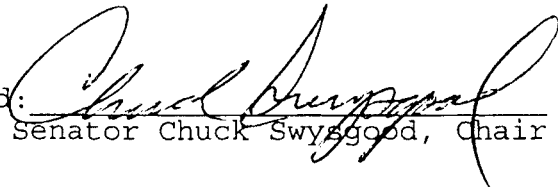
SENATE STANDING COMMITTEE REPORT

Page 1 of 5
April 11, 1997

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill 169 (third reading copy -- blue), respectfully report that House Bill 169 be amended as follows and as so amended be concurred in.

Signed:


Senator Chuck Swygood, Chair

That such amendments read:

1. Title, line 11.

Following: "SYSTEMS;"

Insert: "CLARIFYING APPROPRIATIONS CARRYOVER RESTRICTIONS;"

2. Title, line 13.

Following: "17-6-201,"

Insert: "17-7-304,"

3. Title, line 17.

Following: "MCA"

Insert: ", AND SECTION 13, CHAPTER 23, SPECIAL LAWS OF NOVEMBER 1993"

Strike: "AN"

Strike: "DATE"

Insert: "DATES"

4. Page 16, following line 24.

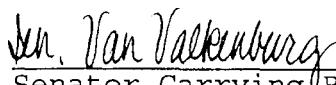
Insert: "Section 13. Section 17-7-304, MCA, is amended to read:

"17-7-304. (Temporary) Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central

 Amd. Coord.

Sec. of Senate


Senator Carrying Bill

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offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) For the 2 years following the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be spent for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning. (Terminates July 1, 1997--sec. 13, Ch. 23, Sp. L. November 1993.)

17-7-304. (Effective July 1, 1997) Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau

of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated."

Renumber: subsequent sections

5. Page 18, line 19.

Strike: "19-5-404;"

Strike: "19-8-504;"

6. Page 19, line 12.

Strike: "the enterprise fund type, the debt service fund type,"

7. Page 19, line 15.

Following: the first "~~type,~~"

Insert: "enterprise fund type, debt service fund type,"

8. Page 20, line 21.

Following: "~~service~~"

Insert: "and internal service"

9. Page 20, lines 22 and 23.

Following: "~~appropriation~~"

Strike: the remainder of line 22 through "treasury" on line 23

Insert: "used as a part of a program that is not an enterprise or internal service function and that otherwise requires an appropriation"

10. Page 22, lines 17 and 18.

Strike: "The state contributions in this section are statutorily appropriated as provided in 17-7-502."

Insert: "The judiciary shall include in its budget and shall request for legislative appropriation an amount necessary to

defray the state's portion of the costs of this section."

11. Page 24, line 3.

Strike: "The payment is statutorily appropriated as provided in 17-7-502."

Insert: "The department of fish, wildlife, and parks shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section."

12. Page 36.

Following: line 5

Insert:

"NEW SECTION. Section 39. Coordination instructions. (1)

If House Bill No. 170 is passed and approved and if contains a new [section 4] providing for state contributions to the public employees' retirement system on behalf of local governments, then:

(a) the new [section 4 of House Bill No. 170] shall read:

"Section 4. State contributions for local government and school district employers. The state shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation of members employed by local government entities and school districts on and after [the effective date of this act]. The division shall certify amounts due under this section on a monthly basis, and the state treasurer shall transfer those amounts to the pension trust fund within 1 week. The payment is statutorily appropriated as provided in 17-7-502."; and

(b) [section 14 of this act], amending 17-7-502, shall include in the list of sections with a statutory appropriation, [section 4 of House Bill No. 170].

(2) If either House Bill No. 173 or House Bill No. 430, is passed and approved, or if both are passed and approved, and if either or both repeal 19-13-1006, then:

(a) [section 27 of this act], amending 19-17-301, shall read:

"Section 27. Section 19-17-301, MCA, is amended to read:

"19-17-301. Fire insurance premium tax to be paid into pension trust fund. The state auditor ~~and ex-officio commissioner of insurance~~ shall annually ~~deposit in pay from the general fund~~ to the pension trust fund a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against risks enumerated in ~~19-18-512 50-3-109~~. The sum must be computed before the amounts provided for by 19-13-604 and 19-18-512 are deducted. The money must be used for the payment of claims, benefits, and administrative costs as provided in this chapter. The money is statutorily appropriated as provided in

17-7-502.""; and

(b) the internal reference to 19-13-1006 in [section 14 of this act], amending 17-7-502, must be removed."
Renumber subsequent sections.

13. Page 36, line 7.

Following: "**Repealer.**"

Insert: "(1)"

14. Page 36.

Following: line 8

Insert: "(2) Section 13, Chapter 23, Special Laws of November 1993, is repealed."

15. Page 36, line 10.

Strike: "date. [This"

Insert: "dates. (1) Except as provided in subsection (2), [this"

16. Page 36.

Following: line 10

Insert: "(2) [Section 40(2) and this section] are effective on passage and approval."

-END-

HOUSE BILL NO. 169

INTRODUCED BY ZOOK, VAN VALKENBURG

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING THE LAWS GOVERNING APPROPRIATIONS AND THE ADMINISTRATION OF STATE GOVERNMENT FINANCES; CLARIFYING THE TREASURY FUNDS SUBJECT TO APPROPRIATION; REVISING AND CLARIFYING THE DEPOSIT OF CERTAIN FUNDS; REVISING THE STATUTORY APPROPRIATION OF CERTAIN FUNDS; CONFORMING THE ADMINISTRATION OF RETIREMENT SYSTEMS TO CONSTITUTIONAL REVISIONS; AUTHORIZING THE PUBLIC EMPLOYEES' RETIREMENT BOARD TO HIRE THEIR OWN PERSONNEL; LIMITING THE ADMINISTRATIVE EXPENSES OF THE RETIREMENT SYSTEMS; CLARIFYING APPROPRIATIONS CARRYOVER RESTRICTIONS; AMENDING SECTIONS 2-9-202, 2-15-1009, 2-18-812, 15-36-324, 15-36-325, 17-2-101, 17-2-102, 17-2-103, 17-2-121, 17-3-221, 17-3-222, 17-6-201, 17-7-304, 17-7-402, 17-7-502, 17-8-101, 19-2-404, 19-2-408, 19-2-502, 19-5-404, 19-6-709, 19-8-504, 19-9-702, 19-9-1007, 19-13-604, 19-13-1006, 19-13-1009, 19-17-301, 19-18-512, 19-19-205, 19-19-305, 19-19-506, 19-20-203, 19-20-501, 19-20-605, 50-3-109, 61-3-321, AND 76-13-114, MCA; REPEALING SECTIONS 19-9-208, 19-13-615, 19-18-513, 19-18-606, AND 19-20-606, MCA, AND SECTION 13, CHAPTER 23, SPECIAL LAWS OF NOVEMBER 1993; AND PROVIDING AN EFFECTIVE DATE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-9-202, MCA, is amended to read:

"2-9-202. Apportionment of costs -- creation of deductible reserve. (1) The department of administration shall apportion the costs of all insurance purchased under 2-9-201 to the individual state participants, and the costs ~~shall~~ must be paid to the department subject to appropriations by the legislature.

(2) The department, if it elects to ~~utilize~~ use a deductible insurance plan, is authorized to charge the individual state participants an amount equal to the cost of a full-coverage insurance plan until such time as a deductible reserve is established. In each subsequent year, the department may charge a sufficient amount over the actual cost of the deductible insurance to replenish ~~such~~ the deductible reserves.

(3) The department may accumulate a self-insurance reserve fund sufficient to provide self-insurance for all liability coverages that in its discretion the department considers should be self-insured. Payments into the self-insurance reserve fund must be made from a legislative appropriation for that purpose. Proceeds of the fund ~~are statutorily appropriated, as provided in 17-7-502, to~~ must be used by the department to pay claims under parts 1 through 3 of this chapter. Expenditures for actual and necessary expenses required for the efficient administration of the fund must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose.

(4) Money in reserve funds established under this section that is not needed to meet expected expenditures ~~shall~~ must be invested and all proceeds of the investment credited to the fund."

Section 2. Section 2-15-1009, MCA, is amended to read:

"2-15-1009. Public employees' retirement board -- terms -- allocation. (1) There is a public employees' retirement board.

(2) The board consists of six members appointed by the governor. The members are:

(a) three public employees who are active members of a public retirement system (not more than one of these members may be an employee of the same department);

(b) one retired public employee who is an inactive member of the public employees' retirement system; and

(c) two members at large.

(3) The term of office for each member is 5 years.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. The board shall hire necessary employees as provided in 19-2-404.

(5) Members of the board ~~shall~~ must be compensated and receive travel expenses as provided for in 2-15-124."

Section 3. Section 2-18-812, MCA, is amended to read:

"2-18-812. Alternatives to conventional insurance for providing state employee group benefits authorized -- requirements. The department may establish alternatives to conventional insurance for providing state employee group benefits. The requirements for providing alternatives to conventional insurance are as follows:

- 1 (1) The department ~~must~~ shall maintain state employee group benefit plans on an actuarially sound
2 basis.
- 3 (2) The department ~~must~~ shall maintain reserves sufficient to liquidate the unrevealed claims liability
4 and other liabilities of state employee group benefit plans.
- 5 (3) The department ~~must~~ shall deposit all reserve funds and premiums paid to a state employee
6 group benefit plan, and the deposits ~~are statutorily appropriated, as provided in 17-7-502, to the~~
7 ~~department to~~ must be expended for claims under the plan.
- 8 (4) The department ~~must~~ shall deposit income earned from the investment of a state employee
9 group benefit plan's reserve fund into the account established under subsection (3) ~~of this section~~ in order
10 to offset the costs of administering the plan. Expenditures for actual and necessary expenses required for
11 the efficient administration of the plan must be made from temporary appropriations, as described in
12 17-7-501(1) or (2), made for that purpose.
- 13 (5) The department shall, prior to implementation of any alternative to conventional insurance,
14 present to the advisory council the evidence upon which the department has concluded that the alternative
15 method will be more efficient, less costly, or otherwise superior to contracting for conventional insurance.
16 ~~The department may not implement any full self insurance alternative prior to July 1, 1981.~~
- 17 (6) The provisions of Title 33 ~~shall~~ do not apply to the department when exercising the powers and
18 duties provided for in this section."

19
20 **Section 4.** Section 15-36-324, MCA, is amended to read:

- 21 **"15-36-324. Distribution of taxes.** (1) For each calendar quarter, the department of revenue shall
22 determine the amount of tax, late payment interest, and penalty collected under this part. For purposes of
23 distribution of the taxes to county and school taxing units, the department shall determine the amount of
24 oil and natural gas production taxes paid on production from pre-1985 wells, post-1985 wells, and
25 horizontally drilled wells located in the taxing unit.
- 26 (2) Except as provided in subsections (3) and (4), oil production taxes must be distributed as
27 follows:
- 28 (a) The amount equal to 41.6% of the oil production taxes, including late payment interest and
29 penalty, collected under this part must be distributed as provided in subsection (7).
- 30 (b) The remaining 58.4% of the oil production taxes, plus accumulated interest earned on the

1 amount allocated under this subsection (2)(b), must be deposited in the ~~agency~~ state special revenue fund
2 in the state treasury and transferred to the county and school taxing units for distribution as provided in
3 subsection (8).

4 (3) The amount equal to 100% of the oil production taxes, including late payment interest and
5 penalty, collected from working interest owners on production from post-1985 wells occurring during the
6 first 12 months of production must be distributed as provided in subsection (7).

7 (4) The amount equal to 100% of the oil production taxes, including late payment interest and
8 penalty, collected under this part on production from horizontally drilled wells and on the incremental
9 production from horizontally recompleted wells occurring during the first 18 months of production must be
10 distributed as provided in subsection (7).

11 (5) Except as provided in subsection (6), natural gas production taxes must be allocated as follows:

12 (a) The amount equal to 14.6% of the natural gas production taxes, including late payment interest
13 and penalty, collected under this part must be distributed as provided in subsection (7).

14 (b) The remaining 85.4% of the natural gas production taxes, plus accumulated interest earned on
15 the amount allocated under this subsection (5)(b), must be deposited in the ~~agency~~ state special revenue
16 fund in the state treasury and transferred to the county and school taxing units for distribution as provided
17 in subsection (8).

18 (6) The amount equal to 100% of the natural gas production taxes, including late payment interest
19 and penalty, collected from working interest owners under this part on production from post-1985 wells
20 occurring during the first 12 months of production must be distributed as provided in subsection (7).

21 (7) The department shall, in accordance with the provisions of 15-1-501(6), distribute the state
22 portion of oil and natural gas production taxes, including late payment interest and penalty collected, as
23 follows:

24 (a) 85% to the state general fund;

25 (b) 4.3% to the state special revenue fund for the purpose of paying expenses of the board as
26 provided in 82-11-135; and

27 (c) 10.7% to be distributed as provided by 15-38-106(2).

28 (8) (a) For the purpose of distribution of the oil and natural gas production taxes from pre-1985
29 wells, the department shall each calendar quarter adjust the unit value determined under 15-36-323
30 according to the ratio that the oil and natural gas production taxes from pre-1985 wells collected during

the calendar quarter for which the distribution occurs plus penalties and interest on delinquent oil and natural gas production taxes from pre-1985 wells bears to the total liability for the oil and natural gas production taxes from pre-1985 wells for the quarter for which the distribution occurs. The amount of oil and natural gas production taxes distributions must be calculated and distributed as follows:

(i) By the dates referred to in subsection (9), the department shall calculate and distribute to each eligible county the amount of oil and natural gas production taxes from pre-1985 wells for the quarter, determined by multiplying the unit value, as adjusted in this subsection (8)(a), by the units of production on which oil and natural gas production taxes from pre-1985 wells were owed for the calendar quarter for which the distribution occurs.

(ii) Any amount by which the total tax liability exceeds or is less than the total distributions determined in subsection (8)(a) must be calculated and distributed in the following manner:

(A) The excess amount or shortage must be divided by the total distribution determined for that period to obtain an excess or shortage percentage.

(B) The excess percentage must be multiplied by the distribution to each taxing unit, and this amount must be added to the distribution to each respective taxing unit.

(C) The shortage percentage must be multiplied by the distribution to each taxing unit, and this amount must be subtracted from the distribution to each respective taxing unit.

(b) Except as provided in subsection (8)(c), the county treasurer shall distribute the money received under subsection (9) from pre-1985 wells to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that a distribution may not be made to a municipal taxing unit.

(c) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in subsection (8)(b), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(ii) If the allocation in subsection (8)(c)(i) exceeds the total budget for a taxing unit, the

1 commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

2 (d) The board of trustees of an elementary or high school district may reallocate the oil and natural
3 gas production taxes distributed to the district by the county treasurer under the following conditions:

4 (i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds
5 of the district in the same proportion that all other property tax proceeds were distributed in the district in
6 fiscal year 1990.

7 (ii) If the allocation under subsection (8)(d)(i) exceeds the total budget for a fund, the trustees may
8 allocate the excess to any budgeted fund of the school district.

9 (e) For all production from post-1985 wells and horizontally drilled wells completed after December
10 31, 1993, the county treasurer shall distribute oil and natural gas production taxes received under
11 subsections (2)(b) and (5)(b) between county and school taxing units in the relative proportions required
12 by the levies for state, county, and school district purposes in the same manner as property taxes were
13 distributed in the preceding fiscal year.

14 (f) The allocation to the county in subsection (8)(e) must be distributed by the county treasurer in
15 the relative proportions required by the levies for county taxing units and in the same manner as property
16 taxes were distributed in the preceding fiscal year.

17 (g) The money distributed in subsection (8)(e) that is required for the county mill levies for school
18 district retirement obligations and transportation schedules must be deposited to the funds established for
19 these purposes.

20 (h) The oil and natural gas production taxes distributed under subsection (8)(b) that are required
21 for the 6-mill university levy imposed under 20-25-423 and for the county equalization levies imposed under
22 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county treasurer
23 to the state treasurer.

24 (i) The oil and natural gas production taxes distributed under subsection (8)(e) that are required for
25 the 6-mill university levy imposed under 20-25-423, for the county equalization levies imposed under
26 20-9-331 and 20-9-333, and for the state equalization aid levy imposed under 20-9-360 must be remitted
27 by the county treasurer to the state treasurer.

28 (j) The amount of oil and natural gas production taxes remaining after the treasurer has remitted
29 the amounts determined in subsections (8)(h) and (8)(i) is for the exclusive use and benefit of the county
30 and school taxing units.

1 (9) The department shall remit the amounts to be distributed in subsection (8) to the county
2 treasurer by the following dates:

3 (a) On or before August 1 of each year, the department shall remit to the county treasurer oil and
4 natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

5 (b) On or before November 1 of each year, the department shall remit to the county treasurer oil
6 and natural gas production tax payments received for the calendar quarter ending June 30 of the current
7 year.

8 (c) On or before February 1 of each year, the department shall remit to the county treasurer oil and
9 natural gas production tax payments received for the calendar quarter ending September 30 of the previous
10 year.

11 (d) On or before May 1 of each year, the department shall remit to the county treasurer oil and
12 natural gas production tax payments received for the calendar quarter ending December 31 of the previous
13 calendar year.

14 (10) The department shall provide to each county by May 31 of each year the amount of gross
15 taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year
16 multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes
17 and for county bonding purposes.

18 (11) The distribution to taxing units under this section is statutorily appropriated as provided in
19 17-7-502."

20

21 **SECTION 5. SECTION 15-36-325, MCA, IS AMENDED TO READ:**

22 **"15-36-325. Local government severance tax payments for calendar year 1995 production --**
23 **distribution of payments -- not subject to I-105 limitations.** (1) The local government severance tax imposed
24 under 15-36-101, as that section read before January 1, 1996, for calendar year 1995 production is due
25 as follows:

26 (a) for oil and natural gas production occurring in the first calendar quarter of 1995, the tax is due
27 May 31, 1996;

28 (b) for oil and natural gas production occurring in the second calendar quarter of 1995, the tax is
29 due May 31, 1997;

30 (c) for oil and natural gas production occurring in the third calendar quarter of 1995, the tax is due

1 May 31, 1998; and

2 (d) for oil and natural gas production occurring in the fourth calendar quarter of 1995, the tax is
3 due May 31, 1999.

4 (2) (a) If the taxpayer pays the entire local government severance tax liability for calendar year
5 1995 on or before June 30, 1996, the taxpayer must receive a 6% reduction in the total local government
6 severance tax liability.

7 (b) Any payment of local government severance taxes for calendar year 1995 made on or before
8 June 30, 1997, does not accrue interest. Any payment of local government severance taxes for calendar
9 year 1995 made after June 30, 1997, must accrue interest at the rate of 1% a month or fraction of a
10 month from July 1, 1997, to the date of payment. Any payment for the third quarter of 1995 received after
11 May 31, 1998, and any payment for the fourth quarter of 1995 received after May 31, 1999, is subject
12 to the late payment penalty provisions in 15-36-311.

13 (c) In the case of the dissolution of the operator or a change in the operator of any lease or unit,
14 any unpaid local government severance tax for calendar year 1995 becomes due on the date of dissolution
15 or on the date of the change in operator. The operator is subject to the provisions of subsection (2)(a)
16 regarding the 6% tax liability reduction or the provisions of subsection (2)(b) regarding interest and
17 penalties.

18 (3) The department shall determine the amount of tax collected under subsections (1) and (2) from
19 within each taxing unit.

20 (4) For purposes of the distribution of local government severance taxes collected under this
21 section, the department shall use the unit value of oil and gas for each taxing unit as determined in
22 15-36-323.

23 (5) The local government severance tax must be deposited in the ~~agency~~ state special revenue fund
24 in the state treasury and transferred to the county for distribution as provided in subsection (6).

25 (6) For the purpose of the distribution of the local government severance tax for calendar year
26 1995 production, the department shall adjust the unit value determined under this section according to the
27 ratio that the local government severance taxes collected during the quarters for which the distribution
28 occurs plus penalties and interest on delinquent local government severance taxes bears to the total liability
29 for local government severance taxes for the quarters for which the distribution occurs. The taxes must
30 be calculated and distributed as follows:

1 (a) By July 31 of each of the years 1996, 1997, 1998, and 1999, the department shall calculate
2 and distribute to each eligible county the amount of local government severance tax for calendar year 1995
3 production, determined by multiplying the unit value, as adjusted in this subsection (6), by the units of
4 production on which the local government severance tax was owed during calendar year 1995 production.

5 (b) Any amount by which the total tax liability exceeds or is less than the total distributions
6 determined in subsection (6)(a) must be calculated and distributed in the following manner:

7 (i) The excess amount or shortage must be divided by the total distribution determined for that
8 period to obtain an excess or shortage percentage.

9 (ii) The excess percentage must be multiplied by the distribution to each taxing unit, and this
10 amount must be added to the distribution to each respective taxing unit.

11 (iii) The shortage percentage must be multiplied by the distribution to each taxing unit, and this
12 amount must be subtracted from the distribution to each respective taxing unit.

13 (7) (a) The county treasurer shall distribute the money received under subsection (6) between the
14 county and school taxing units. The distribution between county and school taxing units is the ratio of the
15 number of mills levied for fiscal year 1990 against 1988 production in each taxing unit for the county and
16 schools, including the county equalization levies that were in effect under 20-9-331 and 20-9-333 as those
17 sections read on July 1, 1989, and the university 6-mill levy imposed under 20-25-423, except that a
18 distribution may not be made to a municipal taxing unit or the state equalization aid levy imposed under
19 20-9-360. Distribution of money for the county equalization levies and the university levy must be remitted
20 to the state by the county treasurer. The amounts distributed under subsections (7)(b) and (7)(c) are for
21 the exclusive use of county and school taxing units.

22 (b) The county treasurer shall deposit the money from subsection (7)(a) allocated to county levies
23 to the oil and gas tax accelerated fund.

24 (c) The trustees of a school district may allocate any payment received under subsection (7)(a) to
25 any budget fund of the district or to the miscellaneous programs fund established in 20-9-507. The trustees
26 shall direct the county treasurer to deposit the local government severance tax payments under this section
27 to the funds of the district in accordance with the allocations determined by the trustees.

28 (8) Local government severance tax payments to a county pursuant to this section are not subject
29 to the limitations of Title 15, chapter 10, part 4. Payments of local government severance tax pursuant to
30 this section may not be used for county classification purposes under 7-1-2111 and may not be considered

in the determination of bonding limits under 7-7-2101, 7-7-2203, 7-14-2524, and 7-16-2327.

(9) The distribution to taxing units under this section is statutorily appropriated as provided in 17-7-502."

Section 6. Section 17-2-101, MCA, is amended to read:

"17-2-101. Title and purpose. (1) Sections 17-2-101 through 17-2-107 may be cited as the "Treasury Fund Structure Act".

(2) The purpose of these sections is to:

(a) comply with Article VIII, section 12, of the Montana constitution;

(b) simplify the accounting system and treasury fund structure of the state;

(c) to make possible the full utilization of modern accounting methods;

(d) to provide the legislature with a greater measure of control over public ~~moneys,~~ money; and

(e) to enable the financial records of the state to accurately reflect the state's ~~revenues~~ revenue, expenditures, expenses, and financial position in accordance with generally accepted accounting principles."

Section 7. Section 17-2-102, MCA, is amended to read:

"17-2-102. Fund structure. (1) ~~There~~ For the purpose of ensuring strict accountability for all revenue received and spent, there are in the state treasury only the following fund categories and types:

(a) the governmental fund category, which includes:

(i) the general fund, which accounts for all financial resources except those required to be accounted for in another fund;

(ii) the special revenue fund type, which accounts for the proceeds of specific revenue sources (other than expendable trusts or major capital projects) that are legally restricted to expenditure for specified purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes, into the following funds to serve the purpose indicated:

(A) The state special revenue fund consists of money from state and other nonfederal sources deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government and money from other nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

1 (B) The federal special revenue fund consists of money deposited in the treasury from federal
2 sources, including trust income, that is used for the operation of state government.

3 (iii) the capital projects fund type, which accounts for financial resources to be used for the
4 acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust
5 funds; and

6 (iv) the debt service fund type, which accounts for the accumulation of resources for and the
7 payment of general long-term debt principal and interest;

8 (b) the proprietary fund category, which includes:

9 (i) the enterprise fund type, which accounts for operations:

10 (A) that are financed and operated in a manner similar to private business enterprises whenever
11 the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or
12 services to the general public on a continuing basis are to be financed or recovered primarily through user
13 charges; or

14 (B) whenever the legislature has decided that periodic determination of revenue earned, expenses
15 incurred, or net income is appropriate for capital maintenance, public policy, management control,
16 accountability, or other purposes; and

17 (ii) the internal service fund type, which accounts for the financing of goods or services provided
18 by one department or agency to other departments or agencies of state government or to other
19 governmental entities on a cost-reimbursed basis;

20 (c) the fiduciary fund category, which includes trust and agency fund types used to account for
21 assets held by state government in a trustee capacity or as an agent for individuals, private organizations,
22 other governmental entities, or other funds. These include the:

23 (i) expendable trust fund type;

24 (ii) nonexpendable trust fund type;

25 (iii) pension trust fund type; and

26 (iv) agency fund type.

27 (d) the higher education funds, which include:

28 (i) the current fund, which accounts for money deposited in the state treasury that is used to pay
29 current operating costs relating to instruction, research, public service, and allied support operations and
30 programs conducted within the Montana university system. The financial activities of the current fund are

1 subdivided, for operational purposes, into the four following subfunds to serve the purpose indicated:

2 (A) The unrestricted subfund segregates that portion of the current fund's financial resources that
3 can be expended for general operations and is free of externally imposed restrictions, except those imposed
4 by the legislature.

5 (B) The restricted subfund segregates that portion of the current fund's financial resources that can
6 be expended for general operations but only for purposes imposed by sources external to the board of
7 regents and the legislature.

8 (C) The designated subfund segregates that portion of the current fund's financial resources that
9 is associated with general operations but is separately classified in order to accumulate costs that are to
10 be recharged as allocated to other funds or subfunds; identifies financial activities related to special
11 organized activities of educational departments in which the activity is fully supported by supplemental
12 assessments; and identifies special supply and facility fees that are approved for collections beyond normal
13 course fees and their disposition.

14 (D) The auxiliary subfund segregates that portion of the current fund's financial resources that is
15 devoted to providing essential on-campus services primarily to students, faculty, or staff wherein a fee,
16 which is directly related to but does not necessarily equal the cost of the service provided, is charged to
17 the consumer.

18 (ii) the student loan fund, which accounts for money deposited in the state treasury that may be
19 loaned to students, faculty, or staff for purposes related to education, organized research, or public services
20 by the Montana university system;

21 (iii) the endowment fund, which accounts for money deposited in the state treasury by the Montana
22 university system wherein the principal portion of the amount received is nonexpendable but is available
23 for investment, thus producing consumable income. Expendable earnings on endowment funds are to be
24 transferred to appropriate operating funds pursuant to prevailing administrative requirements.

25 (iv) the annuity and life income fund, which accounts for money deposited in the state treasury by
26 the Montana university system under an agreement whereby the money is made available on condition that
27 the receiving unit of the Montana university system binds itself to pay stipulated amounts periodically to
28 the donor or others designated by the donor over a specified period of time;

29 (v) the plant fund, which accounts for those financial resources allocated to or received by the
30 Montana university system for capital outlay purposes or to retire long-term debts associated with

- 1 construction or acquisition of fixed assets and the net accumulative results of these activities; and
- 2 (vi) the agency fund, which accounts for money deposited in the state treasury wherein the
- 3 Montana university system acts in the capacity of a custodian or fiscal agent for individual students,
- 4 faculty, staff, and qualified organizations.
- 5 (2) In addition to the funds provided for in subsection (1), there are in the state treasury the
- 6 following account groups:
- 7 (a) the fixed assets account group, which is a self-balancing group of accounts set up to establish
- 8 accounting control and accountability for the state's general fixed assets, except those accounted for in
- 9 proprietary funds, trust funds, and the higher education funds designated in subsections (1)(d)(i)(D),
- 10 (1)(d)(iii), and (1)(d)(v); and
- 11 (b) the long-term debt account group, which is a self-balancing group of accounts set up to
- 12 establish accounting control and accountability for the state's unmatured general long-term liabilities, except
- 13 those accounted for in proprietary funds, trust funds, and the higher education funds designated in
- 14 subsections (1)(d)(i)(D), (1)(d)(iii), and (1)(d)(v)."

15

16 **Section 8.** Section 17-2-103, MCA, is amended to read:

17 **"17-2-103. Previous definitions of funds -- identification or segregation of ~~moneys~~ money and**

18 **funds.** (1) It is the intent of the legislature that the definitions in 17-2-102 supersede all previous definitions

19 of public funds ~~which~~ that are inconsistent with the definitions found in this part.

20 (2) Any laws enacted in the future or any contracts entered into in the future in pursuance of law

21 that require the segregation of ~~moneys~~ money in the state treasury by means of a separate treasury fund

22 ~~shall~~ must be interpreted as permitting the segregation of ~~such moneys~~ the money by means of a subfund

23 or account within one of the funds created by 17-2-102.

24 (3) Each federal grant or other federal money within any subfund or account of one of the funds

25 created by 17-2-102(1)(a) through (1)(c) must be identifiable as a separate accounting entity, reporting

26 center, responsibility center, or revenue identification code, and an account must be made of each such

27 grant or other money by income and expenditure for each federal grant year or fiscal year as may be

28 applicable.

29 (4) Unless otherwise specifically provided in the statutes pertaining to the tax, the portion of taxes

30 collected by the state that, pursuant to a statute, are to be allocated or distributed to units of local

1 government, school districts, authorities, or other local governmental entities ~~shall~~ must be accounted for
2 in a ~~fiduciary~~ state special revenue fund, established in 17-2-102, as prescribed by the department in
3 accordance with generally accepted accounting principles."

4
5 **Section 9.** Section 17-2-121, MCA, is amended to read:

6 **"17-2-121. Deposits by insurance commissioner.** ~~All~~ Except as provided in 33-2-708, all fees,
7 miscellaneous and examination charges, fines, penalties, and those amounts received pursuant to 33-2-311,
8 33-2-705, ~~or~~ 33-2-706, or 50-3-109 collected by the insurance commissioner pursuant to Title 33 and the
9 rules adopted ~~thereunder~~ to implement Title 33 must be deposited in the general fund."

10
11 **Section 10.** Section 17-3-221, MCA, is amended to read:

12 **"17-3-221. State treasurer to be custodian of ~~moneys~~ money received under Taylor Grazing Act.**
13 The state treasurer ~~shall be~~ is the custodian of all ~~moneys~~ money that the treasurer of the United States
14 ~~may transfer~~ transfers to the state of Montana under the terms of section 10 of the Taylor Grazing Act
15 approved June 28, 1934, (Public No. 482), which provides that the secretary of the United States treasury
16 pay one-half of the ~~moneys~~ money received from each grazing district each year to the state where
17 collected, to be expended as the legislature may prescribe. The money must be deposited in the federal
18 special revenue fund."

19
20 **Section 11.** Section 17-3-222, MCA, is amended to read:

21 **"17-3-222. Apportionment of moneys to counties.** (1) ~~It shall be~~ is the duty of the state treasurer
22 to properly apportion and allocate ~~these moneys~~ the money received pursuant to 17-3-221 to the county
23 treasurers, who ~~will~~ shall allocate and pay ~~all such moneys~~ the money as follows:

24 (a) 50% to the county general fund; and

25 (b) 50% to the common school fund of the county.

26 (2) The payments from the state to the county treasurers provided for in subsection (1) are
27 statutorily appropriated as provided in 17-7-502."

28
29 **Section 12.** Section 17-6-201, MCA, is amended to read:

30 **"17-6-201. Unified investment program -- general provisions.** (1) The unified investment program

1 directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be
2 administered by the board of investments in accordance with the prudent expert principle, which requires
3 any investment manager to:

4 (a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then
5 prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like
6 matters exercises in the conduct of an enterprise of a like character with like aims;

7 (b) diversify the holdings of each fund within the unified investment program to minimize the risk
8 of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do
9 so; and

10 (c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified
11 investment program.

12 (2) (a) Retirement funds may be invested in common stocks of any corporation, except that an
13 investment may not be made at any time that would cause the book value of the investments in any
14 retirement fund to exceed 50% of the book value of the fund or would cause the stock of one corporation
15 to exceed 2% of the book value of the retirement fund.

16 (b) Other public funds may not be invested in private corporate capital stock. "Private corporate
17 capital stock" means only the common stock of a corporation.

18 (3) (a) This section does not prevent investment in any business activity in Montana, including
19 activities that continue existing jobs or create new jobs in Montana.

20 (b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds
21 in venture capital companies. Whenever possible, preference should be given to investments in those
22 venture capital companies that demonstrate an interest in making investments in Montana.

23 (c) In discharging its duties, the board shall consider the preservation of purchasing power of
24 capital during periods of high monetary inflation.

25 (d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a
26 portion of a loan originated by a financial institution is not considered a direct loan.

27 (4) The board has the primary authority to invest state funds. Another agency may not invest state
28 funds unless otherwise provided by law. The board shall direct the investment of state funds in accordance
29 with the laws and constitution of this state. The board has the power to veto any investments made under
30 its general supervision.

1 (5) The board shall:

2 (a) assist agencies with public money to determine if, when, and how much surplus cash is
3 available for investment;

4 (b) determine the amount of surplus treasury cash to be invested;

5 (c) determine the type of investment to be made;

6 (d) prepare the claim to pay for the investment; and

7 (e) keep an account of the total of each investment fund and of all the investments belonging to
8 the fund and a record of the participation of each treasury fund account in each investment fund.

9 (6) The board may:

10 (a) execute deeds of conveyance transferring all real property obtained through foreclosure of any
11 investments purchased under the provisions of 17-6-211 when full payment has been received for the
12 property;

13 (b) direct the withdrawal of any funds deposited by or for the state treasurer pursuant to 17-6-101
14 and 17-6-105;

15 (c) direct the sale of any securities in the program at their full and true value when found necessary
16 to raise money for payments due from the treasury funds for which the securities have been purchased;

17 (d) expend funds needed to cover costs of necessary repairs to property owned by the board as
18 an investment. The expenditures may be made directly by the board ~~and are statutorily appropriated, as~~
19 ~~provided in 17-7-502.~~ Repairs that cost in excess of \$2,500 must be bid, and the bid must be awarded in
20 compliance with existing state law and regulations. Emergency repairs may be made by the board without
21 bid if approved by the state architect.

22 (7) The cost of administering and accounting for each investment fund must be deducted from the
23 income from each fund.

24 (8) At the beginning of each fiscal year, the board shall, from the appropriate fund, reimburse the
25 department of commerce for the costs of administering programs established under Title 90, chapter 3, that
26 are not covered by payback funds available from the account established in 90-3-305."
27

28 **SECTION 13. SECTION 17-7-304, MCA, IS AMENDED TO READ:**

29 **"17-7-304. (Temporary) Disposal of unexpended appropriations.** (1) All money appropriated for any
30 specific purpose except that appropriated for the university system units listed in subsection (2) and except

as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) For the 2 years following the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be spent for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning. (Terminates July 1, 1997--sec. 13, Ch. 23, Sp. L. November 1993.)

17-7-304. (Effective July 1, 1997) Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific

1 appropriation may be used for the years for which the appropriation was made.

2 (2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for
3 the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university
4 campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central
5 offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the
6 cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with
7 central offices in Butte must, after the expiration of the time for which appropriated, revert to an account
8 held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a
9 statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with
10 a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases
11 prepared by the affected university system units and approved by the board of regents. The affected
12 university system units may, with the approval of the board of regents, modify the long-term plan at any
13 time to address changing needs and priorities. The board of regents shall communicate the plan to each
14 legislature, to the finance committee when requested by the committee, and to the office of budget and
15 program planning.

16 (3) Subsection (2) does not apply to reversions that are the result of a reduction in spending
17 directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending
18 directed by the governor must revert to the fund or account from which it was originally appropriated."
19

20 **Section 14.** Section 17-7-402, MCA, is amended to read:

21 **"17-7-402. Budget amendment requirements.** (1) Except as provided in subsection (6), a budget
22 amendment may not be approved:

23 (a) by the approving authority, except a budget amendment to spend:

24 (i) additional federal revenue;

25 (ii) additional tuition collected by the Montana university system;

26 (iii) additional revenue deposited in the internal service funds within the department or the office
27 of the commissioner of higher education as a result of increased service demands by state agencies;

28 (iv) Montana historical society enterprise revenue resulting from sales to the public;

29 (v) additional revenue that is deposited in funds other than the general fund and that is from the
30 sale of fuel for those agencies participating in the Montana public vehicle fueling program established by

- 1 Executive Order 22-91; or
- 2 (vi) revenue resulting from the sale of goods produced or manufactured by the industries program
- 3 of an institution within the department of corrections;
- 4 (b) by the approving authority if the budget amendment contains any significant ascertainable
- 5 commitment for any present or future increased general fund support;
- 6 (c) by the approving authority for the expenditure of money in the state special revenue fund unless
- 7 an emergency justifies the expenditure or the expenditure is exempt under subsection (4);
- 8 (d) by the approving authority unless it will provide additional services;
- 9 (e) by the approving authority for any matter of which the requesting agency had knowledge at
- 10 a time when the proposal could have been presented to an appropriation subcommittee, the house
- 11 appropriations committee, or the senate finance and claims committee of the most recent legislative session
- 12 open to that matter, except when the legislative finance committee is given specific notice by the approving
- 13 authority that significant identifiable events, specific to Montana and pursuant to provisions or requirements
- 14 of Montana state law, have occurred since the matter was raised with or presented for consideration by
- 15 the legislature; or
- 16 (f) to extend beyond June 30 of the last year of any biennium.
- 17 (2) All budget amendments must itemize planned expenditures by fiscal year.
- 18 (3) Each budget amendment must be submitted by the approving authority to the budget director
- 19 and the legislative fiscal analyst. The proposed expenditure of money from nonstate or nonfederal sources
- 20 that is restricted by law must be submitted to the legislative fiscal analyst.
- 21 (4) Money from nonstate or nonfederal sources that would be deposited in the state special
- 22 revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust
- 23 agreement, or donation, is exempt from the requirements of this part.
- 24 (5) An appropriation that would usually be the subject of a budget amendment that is submitted
- 25 to the legislature for approval during a legislative session may not include authority to spend money beyond
- 26 the first fiscal year of the next biennium.
- 27 (6) A budget amendment to spend state funds, other than from the general fund, required for
- 28 matching funds in order to receive a grant is exempt from the provisions of subsection (1)."
- 29

30 **Section 15.** Section 17-7-502, MCA, is amended to read:

1 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
2 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
3 without the need for a biennial legislative appropriation or budget amendment.

4 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
5 with both of the following provisions:

6 (a) The law containing the statutory authority must be listed in subsection (3).

7 (b) The law or portion of the law making a statutory appropriation must specifically state that a
8 statutory appropriation is made as provided in this section.

9 (3) The following laws are the only laws containing statutory appropriations: ~~2-9-202~~; 2-17-105;
10 ~~2-18-812~~; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
11 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404;
12 16-1-410; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-5-404; 17-5-424; 17-5-804;
13 17-6-101; ~~17-6-201~~; 17-7-304; 18-11-112; ~~19-2-502~~; 19-5-404; 19-6-709; ~~19-8-504~~; 19-9-702;
14 19-9-1007; 19-13-604; 19-13-1006; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
15 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
16 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;
17 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
18 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
19 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;
20 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

21 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
22 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
23 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
24 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
25 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
26 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to
27 sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
28 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
29 July 1, 2001.)"

Section 16. Section 17-8-101, MCA, is amended to read:

"17-8-101. Appropriation and disbursement of money from treasury. (1) ~~Except as provided in subsection (5)~~ For purposes of complying with Article VIII, section 14, of the Montana constitution, money deposited in the general fund, the special revenue fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation), ~~the enterprise fund type, the debt service fund type,~~ and the capital projects fund type, with the exception of refunds authorized in subsection ~~(3)~~ (4), must be paid out of the treasury only on appropriation made by law.

(2) Money deposited in the ~~enterprise fund type,~~ ENTERPRISE FUND TYPE, DEBT SERVICE FUND TYPE, internal service fund type, ~~debt service fund type,~~ expendable trust fund type, ~~nonexpendable trust fund type, pension trust fund type,~~ agency fund type, and state special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation, ~~and agency fund type~~ may be paid out of the treasury:

- (a) by appropriation; or
- (b) under general laws, or contracts entered into in pursuance of law, permitting the disbursement.
- (3) The pension trust fund type is not considered a part of the state treasury for appropriation purposes. Money deposited in the pension trust fund type may be paid out of the treasury pursuant to general laws, trust agreement, or contract.

~~(3)(4)~~ Subject to the provisions of subsection (8), money Money paid into the state treasury through error or under circumstances, such that the state is not legally entitled to retain it and a refund procedure is not otherwise provided by law, may be refunded upon the submission of a verified claim approved by the department of administration.

~~(4)(5)~~ Authority to expend appropriated money may be transferred from one state agency to another, provided that the original purpose of the appropriation is maintained. The office of budget and program planning shall report semiannually to the legislative finance committee concerning all appropriations transferred under the provisions of this section.

~~(5)(6)~~ Fees and charges for services deposited in the internal service fund type must be based upon commensurate costs. The legislative auditor, during regularly scheduled audits of state agencies, shall audit and report on the reasonableness of internal service fund type fees and charges and on the fund equity balances.

1 ~~(6),(7)~~ The office of budget and program planning shall include in the budget submitted to the
2 legislature a report on:

3 (a) enterprise funds, including retained earnings and contributed capital, projected operations and
4 charges, and projected fund balances; and

5 (b) internal service fund type fees and charges, including changes in the level of fees and charges,
6 projected use of the fees and charges, and projected fund balances. Internal service fund type fees and
7 charges must be approved by the legislature in the general appropriations act. Fees and charges in any
8 biennium may not exceed the level approved by the legislature in the general appropriations act effective
9 for that biennium.

10 ~~(7),(8) Any~~ The creation of accounts in the enterprise fund or the internal service fund created after
11 July 1, 1995, must be approved by the department, using conformity with generally accepted accounting
12 principles as the primary approval criteria. The department shall report annually to the office of budget and
13 program planning and the legislative finance committee on the nature, status, and justification for all new
14 accounts in the enterprise fund and the internal service fund.

15 ~~(8),(9) Enterprise and internal service~~ AND INTERNAL SERVICE funds must be appropriated if they
16 are used as a part of a program that is not an enterprise or internal service function and otherwise requires
17 an appropriation ~~paid out of the state treasury~~ USED AS A PART OF A PROGRAM THAT IS NOT AN
18 ENTERPRISE OR INTERNAL SERVICE FUNCTION AND THAT OTHERWISE REQUIRES AN APPROPRIATION.
19 The payment of funds into an internal service fund must be authorized by law."

20
21 **Section 17.** Section 19-2-404, MCA, is amended to read:

22 **"19-2-404. Appointment and compensation of administrative staff.** The ~~department~~ board shall
23 ~~appoint hire~~ and fix the compensation of an administrator and other necessary employees to assist the
24 board in administering the retirement systems. The compensation of the administrator and employees must
25 be established in accordance with Title 2, chapter 18."

26
27 **Section 18.** Section 19-2-408, MCA, is amended to read:

28 **"19-2-408. Administrative expenses.** (1) The legislature finds that proper administration of the
29 pension trust funds benefits both employers and members and continues to benefit members after
30 retirement.

(2) The administrative expenses of the retirement systems administered by the board must be paid from the investment earnings on the pension trust fund of the public employees' retirement system, except as provided in subsection (3). Before the fiscal yearend closing, the board shall compute the administrative expenses attributable to each retirement system administered by the board for the immediately preceding fiscal year and transfer that amount from each retirement system's pension trust fund to the pension trust fund of the public employees' retirement system. The total administrative expenses of the board, including the administration of the volunteer firefighters' pension plan, may not exceed 1.5% of the total retirement benefits paid.

(3) On January 1 of each year, each employer under the public employees' retirement system shall contribute on behalf of each member then in its service a membership fee of \$1 in addition to other required contributions. ~~The appropriation of these fees, together with other money appropriated for that purpose,~~ must be used for the purpose of defraying the administrative expense of chapters 2, 3, 5 through 9, and 13, and this chapter.

~~(4) Any request for an increase in spending authority for administrative expenses requires a budget amendment and is subject to Title 17, chapter 7, part 4.~~

~~(5) The board may assess and the division may collect a fee from the department of fish, wildlife, and parks for the purpose of defraying the expenses of administering chapter 8 of this title."~~

Section 19. Section 19-2-502, MCA, is amended to read:

"19-2-502. ~~Statutory appropriation of payments~~ Payments from pension trust funds. (1) ~~Assets~~ The board shall administer the assets of the pension trust funds ~~are statutorily appropriated, as provided in 17-7-502, to the division for payment of benefits and refunds to eligible recipients and for paying the necessary administrative and investment expenses of the retirement systems as provided in Article VIII, section 15, of the Montana constitution,~~ subject to the specific provisions of chapters 2, 3, 5 through 9, and 13 of this title.

(2) Benefits and refunds to eligible recipients are payable pursuant to a contract as contained in statute. The contract is entered into on the first day of a member's covered employment and may be enhanced by the legislature. Unless specifically provided for by statute, the contract does not contain revisions to statutes after the time of retirement or termination."

1 **Section 20.** Section 19-5-404, MCA, is amended to read:

2 **"19-5-404. Contributions by state.** (1) The state of Montana shall contribute monthly to the
3 pension trust fund a sum equal to 6% of the compensation of each member. In addition, the clerk of each
4 district court shall transmit 68% of certain filing fees as required under 25-1-201(2) and that portion of the
5 fee for filing a petition for dissolution of marriage and a motion for substitution of a judge specified in
6 25-1-201(4) and (6) to the state, which shall first deposit in the pension trust fund an amount equal to
7 34.71% of the total compensation paid to district judges and supreme court justices who are covered by
8 the judges' retirement system and then deposit the balance in the state general fund. The clerk of the
9 supreme court shall pay one-fourth of the fees collected under 3-2-403 to the division to be credited to the
10 pension trust fund.

11 (2) The state of Montana shall contribute monthly from the renewable resource grant and loan
12 program account in the state special revenue fund to the judges' pension trust fund an amount equal to
13 34.71% of the compensation paid to the chief water court judge. ~~The state contributions in this section~~
14 ~~are statutorily appropriated as provided in 17-7-502. THE JUDICIARY SHALL INCLUDE IN ITS BUDGET AND~~
15 ~~SHALL REQUEST FOR LEGISLATIVE APPROPRIATION AN AMOUNT NECESSARY TO DEFRAY THE~~
16 ~~STATE'S PORTION OF THE COSTS OF THIS SECTION."~~

17
18 **Section 21.** Section 19-6-709, MCA, is amended to read:

19 **"19-6-709. (Temporary) Supplemental benefits for certain retirees.** (1) In addition to any retirement
20 benefit payable under this chapter, a retired member or a survivor determined by the board to be eligible
21 under subsection (2) must receive an annual lump-sum benefit payment beginning in September 1991 and
22 each succeeding year as long as the member remains eligible.

23 (2) To be eligible for the benefits under this section, a person must be receiving a monthly benefit
24 before July 1, 1991, and must be:

25 (a) a retired member who is 55 years of age or older and who has been receiving a service
26 retirement benefit for at least 5 years prior to the date of distribution;

27 (b) a survivor of a member who would have been eligible under subsection (2)(a); or

28 (c) a recipient of a disability or survivorship benefit under 19-6-601 or 19-6-901.

29 (3) A retired member otherwise qualified under this section who is employed in a position covered
30 by a retirement system under Title 19 is ineligible to receive any lump-sum benefit payments provided for

1 in this section until the member's service in the covered position is terminated. Upon termination of the
2 member's covered service, the retired member becomes eligible in the next fiscal year succeeding the
3 member's termination.

4 (4) (a) ~~Twenty-five~~ An amount equal to 25 cents of each motor vehicle registration fee provided
5 for in 61-3-321(5) must be ~~deposited in~~ paid from the general fund to the pension trust fund at the end of
6 each fiscal year. The ~~fee payment~~ is statutorily appropriated, as provided in 17-7-502, to the pension fund
7 for payment of benefits to eligible recipients. The total funds must be distributed by the division in
8 lump-sum payments to eligible recipients along with their normal retirement benefit payment.

9 (b) The lump-sum payment must be distributed proportionally to all eligible recipients based on
10 service credit at the time of retirement, subject to the following:

11 (i) a recipient under subsection (2)(c) is considered to have 20 years of service for the purposes
12 of the distributions;

13 (ii) any recipient of a service retirement benefit exceeding the maximum monthly benefit under
14 19-6-707(2)(a) must have the recipient's service credit reduced 25% for the purposes of the distributions;

15 (iii) the maximum annual increase in the amount of supplemental benefits paid to each individual
16 under this section after August 31, 1993, is the percentage increase for the previous calendar year in the
17 annual average consumer price index for urban wage earners and workers, compiled by the bureau of labor
18 statistics of the United States department of labor or its successor agency.

19 (c) Any amount deposited in the pension trust fund under subsection (4)(a) for the payment of
20 supplemental benefits under this section that exceeds the limitation of subsection (4)(b)(iii) must be used
21 to amortize unfunded liabilities of the retirement system.

22 (5) Every 10 years following July 1, 1991, the division shall review the size of the additional fee
23 collected under 61-3-321(5) and ~~deposited in the account~~ paid to the pension trust fund in accordance with
24 subsection (4)(a) and recommend to each legislature following the division's review any legislation
25 necessary to reduce the fee to the minimum amount necessary to provide the supplemental benefits
26 provided by this section."

27
28 **Section 22.** Section 19-8-504, MCA, is amended to read:

29 **"19-8-504. State's contribution.** Each month, the state treasurer shall pay to the pension trust
30 fund out of the department of fish, wildlife, and parks funds, a sum equal to 8.15% of all members'

1 salaries. ~~The payment is statutorily appropriated as provided in 17-7-502.~~ THE DEPARTMENT OF FISH,
2 WILDLIFE, AND PARKS SHALL INCLUDE IN ITS BUDGET AND SHALL REQUEST FOR LEGISLATIVE
3 APPROPRIATION AN AMOUNT NECESSARY TO DEFRAY THE STATE'S PORTION OF THE COSTS OF THIS
4 SECTION."

5
6 **Section 23.** Section 19-9-702, MCA, is amended to read:

7 **"19-9-702. State contribution.** The state of Montana shall make its contributions ~~through the state~~
8 ~~auditor out of~~ from the general fund ~~the premium tax on motor vehicle property and casualty insurance~~
9 ~~policies.~~ The ~~payments~~ general fund contributions must be made annually after the end of each fiscal year
10 but no later than November 1 ~~from the gross premium tax after deduction for cancellations and returned~~
11 ~~premiums.~~ The division shall notify the state auditor by September 1 of each fiscal year of the annual
12 compensation paid to all active members during the preceding fiscal year. The state's contribution is
13 15.66% of compensation paid to members. The contributions are statutorily appropriated as provided in
14 17-7-502."

15
16 **Section 24.** Section 19-9-1007, MCA, is amended to read:

17 **"19-9-1007. Supplement to certain benefits.** (1) The benefits paid in each fiscal year to a retired
18 member or the member's survivors may not be less than one-half of the compensation that will be paid in
19 the current fiscal year in the appropriate city or town to newly confirmed police officers.

20 (2) On or before October 1 of each year, the division shall make a report including the following
21 information:

22 (a) the names of all retired members who are receiving benefits from the retirement system as of
23 the date of the report;

24 (b) the names of all surviving spouses or dependent children who are receiving benefits from the
25 retirement system because of the death of an active or retired member of this or a prior plan;

26 (c) for the purpose of determining the base retirement, disability, or survivorship benefits for the
27 computations set forth in subsection (3), the following information relating to the base fiscal year
28 commencing July 1, 1976:

29 (i) the amount of the benefits paid in the base fiscal year to each retired member described in
30 subsection (2)(a);

(ii) the amount of the benefits paid in the base fiscal year to each surviving spouse or dependent child described in subsection (2)(b);

(iii) upon the death after the base fiscal year of any retired member who was receiving benefits, the amount of benefits that would have been paid to an eligible surviving spouse of the retired member if the surviving spouse had been receiving benefits in the base fiscal year;

(d) the original amount of retirement, disability, or survivorship benefits paid to retired members or their eligible survivors as of the original retirement dates after July 1, 1975;

(e) the compensation that will be paid during the current fiscal year to a newly confirmed police officer of each city or town participating in the retirement system.

(3) The division shall compute the difference between each amount reported under subsections (2)(c) through (2)(e) and one-half the compensation to be paid during the current fiscal year to a newly confirmed police officer of the appropriate city or town. The difference must be reported to the state auditor, who shall pay the difference from the general fund to the pension trust fund ~~out of the premium tax collected on insurance sold in this state to insure against the risks enumerated in 19-18-512(3)~~ no later than November 1. If the compensation of a newly confirmed police officer has not been set for the current fiscal year in time to be included in the October 1 report to the state auditor, the division shall make any retroactive adjustments necessary to individual supplemental benefits after the current compensation has been determined and shall include these amounts in the next year's report for reimbursement at that time.

(4) The ~~premium tax~~ amount paid by the state auditor is statutorily appropriated, as provided in 17-7-502, for the payment of supplemental retirement benefits to eligible retired members and their survivors. This payment amount is in addition to the payment to be made by the state auditor under 19-9-702.

(5) If more than one dependent child is entitled to supplementary benefits under this section by virtue of the death of a common parent, the minimum benefit paid to the dependent children under this section must be determined as if there were one dependent child and the supplementary benefits must be paid to the dependent children collectively."

Section 25. Section 19-13-604, MCA, is amended to read:

"19-13-604. State contribution. The state shall make its contributions ~~through the state auditor from the premium taxes on the insurance risks enumerated in 19-18-512~~ general fund. ~~These payments~~

1 Payments must be made annually from the general fund to the pension trust fund after the end of each
2 fiscal year but no later than November 1 ~~from the gross premium taxes after deduction for cancellations~~
3 ~~and returned premiums~~. The division shall notify the state auditor of the annual compensation, excluding
4 overtime, holiday payments, shift differential payments, compensatory time payments, and payments in
5 lieu of sick leave, paid to all active members during the preceding year. The state's contribution is 24.21 %
6 of this total compensation. ~~As soon as practicable after receipt of the state contribution, the division shall~~
7 ~~deposit it in the pension trust fund.~~ The contributions are statutorily appropriated as provided in 17-7-502."
8

9 **Section 26.** Section 19-13-1006, MCA, is amended to read:

10 **"19-13-1006. Supplement to retirement benefits for persons retiring before July 1, 1973.** (1) The
11 retirement system shall pay to each member retired before July 1, 1973, or the member's surviving spouse
12 or dependent children a monthly retirement benefit of not less than one-half the regular monthly
13 compensation paid to a confirmed active firefighter of the city that last employed the member as a
14 firefighter, as provided each year in the budget of that city. If the city that last employed the member as
15 a firefighter no longer employs a full-paid firefighter, the member's or survivor's benefit may not be less
16 than one-half the average regular monthly compensation paid to all newly confirmed full-paid firefighters,
17 as provided each year in the budgets of those cities that participate in the retirement system and employ
18 a full-paid firefighter. In the case of volunteer firefighters, the retirement benefit may not exceed \$75 per
19 month. Distribution of the money provided for this purpose under ~~19-13-606(1)~~ subsection (2) must be
20 made according to subsection ~~(2)~~ (3).

21 (2) The state auditor shall deposit the proceeds of the tax collected pursuant to 50-3-109(1)(b) in
22 the general fund. The state auditor shall pay an amount equal to the proceeds of the tax from the general
23 fund to the pension trust fund to be used to pay claims as provided in subsection (3). The payment is
24 statutorily appropriated as provided in 17-7-502. If the amount paid is in excess of the amount necessary
25 for the payment of claims as provided in subsection (3), the excess must be used to pay the supplementary
26 benefits provided for in 19-13-1009.

27 ~~(2)(3)~~ (a) At the beginning of each fiscal year, the division shall request and, except as provided
28 in subsection ~~(2)(b)~~ (3)(b), the state auditor shall ~~issue pay~~ issue from the state ~~special revenue~~ general fund ~~and~~
29 ~~deliver to the division~~ pension trust fund an amount certified to be equal to the total annual dollar difference
30 between the total retirement benefits paid to all retirees or their surviving spouses or dependent children

1 in the previous fiscal year and the total benefits payable on June 30, 1973. ~~The division shall deposit this~~
2 ~~money into the pension trust fund.~~

3 (b) If ~~the amount of insufficient money is contained in the state special revenue fund to pay the~~
4 ~~amount requested~~ paid in subsection ~~(2)(a)~~ (3)(a) is insufficient, the auditor shall pay to the division the
5 ~~balance contained in the state special revenue fund.~~ The division shall continue to request the payment of
6 any portion of the amount requested under subsection ~~(2)(a)~~ (3)(a) that was not paid in previous fiscal years
7 plus sufficient interest to reimburse the pension trust fund, ~~which~~ The amounts must be paid to the division
8 pension trust fund prior to determining whether sufficient ~~cash remains in the special revenue fund taxes~~
9 have been collected to make any amount available for payments into the account established in 19-13-616
10 of supplementary benefits provided for in 19-13-1009. The state auditor shall pay the ~~requests~~ amounts
11 as premium tax money in the state ~~special revenue general~~ fund becomes available."

12

13 **Section 27.** Section 19-13-1009, MCA, is amended to read:

14 "19-13-1009. **Supplement to retirement benefits for persons hired on or after July 1, 1981.** (1)
15 The division shall pay a supplemental benefit ~~from the account provided for in 19-13-616~~ to each member
16 hired on or after July 1, 1981, who has earned 20 years of membership service as an active firefighter or
17 to the member's surviving spouse or dependent children. Except as provided in subsection (2), the
18 supplemental benefit, when added to the service retirement benefit, must equal one-half the regular monthly
19 compensation paid to a newly confirmed full-paid active firefighter of the city that last employed the
20 member as a firefighter as provided each year in the budget of that city. If after a member retires, the city
21 that last employed the member no longer employs a full-paid firefighter, the member's supplemental benefit
22 must be calculated on the basis of the average monthly compensation paid to all newly confirmed full-paid
23 firefighters, as provided each year in the budgets of those cities that participate in the retirement system
24 and employ a full-paid firefighter.

25 (2) If the amount available ~~to the account~~ is insufficient to fully fund the supplemental benefit
26 provided for in subsection (1), the supplemental benefit for each eligible member or survivor must be
27 reduced by an equal percentage so that the amount ~~contained in the account~~ available for this purpose is
28 not exceeded."

29

30 **Section 28.** Section 19-17-301, MCA, is amended to read:

1 **"19-17-301. Fire insurance premium tax to be paid into pension trust fund.** The state auditor ~~and~~
2 ~~ex officio commissioner of insurance~~ shall annually ~~deposit in~~ pay from the general fund to the pension trust
3 fund a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance
4 against risks enumerated in ~~19-18-512~~ 50-3-109. The sum must be computed before the amounts provided
5 for by 19-13-604, 19-13-1006, and 19-18-512 are deducted. The money must be used for the payment
6 of claims, benefits, and administrative costs as provided in this chapter. The money is statutorily
7 appropriated as provided in 17-7-502."

8
9 **Section 29.** Section 19-18-512, MCA, is amended to read:

10 **"19-18-512. State auditor to pay -- payment to association out of insurance premium taxes.** (1)
11 After the end of the fiscal year, the state auditor shall issue and deliver the warrant described in this
12 subsection to the treasurer of ~~every~~ each city or town ~~which that~~ has a fire department relief association
13 entitled by law to receive payments. The warrant ~~shall~~ must be for the use and benefit of the association.
14 ~~It shall~~ The warrant must be for an amount equal to 1 1/2 mills of the total taxable value of the city or town
15 and ~~shall~~ must be paid out of the ~~premium taxes on insurance risks enumerated in subsection (3) collected~~
16 ~~by the state auditor~~ general fund. The payment is statutorily appropriated as provided in 17-7-502.

17 (2) ~~If the~~ The payment provided for in subsection (1) ~~is less than \$100, an additional payment shall~~
18 ~~be made from the same tax moneys so that the total amount received is~~ must be for at least \$100.

19 ~~(3) The risks referred to in subsection (1) are:~~

20 ~~(a) insurance of houses, buildings, and all other kinds of property against loss or damage by fire~~
21 ~~or other casualty;~~

22 ~~(b) all kinds of insurance on goods, merchandise, or other property in the course of transportation,~~
23 ~~whether by land, water, or air;~~

24 ~~(c) insurance against loss or damage to motor vehicles resulting from accident, collision, or marine~~
25 ~~and inland navigation and transportation perils;~~

26 ~~(d) insurance of growing crops against loss or damage resulting from hail or the elements;~~

27 ~~(e) insurance against loss or damage by water to any goods or premises arising from the breakage~~
28 ~~or leakage of sprinklers, pumps, or other apparatus;~~

29 ~~(f) insurance against loss or legal liability for loss because of damage to property caused by the~~
30 ~~use of teams or vehicles, whether by accident or collision or by explosion of any engine, tank, boiler, pipe,~~

1 ~~or tire of any vehicle; and~~
2 ~~(g) insurance against theft of the whole or any part of any vehicle."~~

3
4 **Section 30.** Section 19-19-205, MCA, is amended to read:

5 **"19-19-205. Actuarial valuation of police retirement fund.** (1) The city treasurer shall submit to
6 the department of administration before October 1 of each odd-numbered year all information requested
7 by the department necessary to complete an actuarial valuation of the city's police retirement fund. The
8 valuation ~~shall~~ must consider the actuarial soundness of the police retirement fund for the 2 preceding fiscal
9 years.

10 (2) The valuation ~~is to~~ must be prepared by a qualified actuary selected by the department. A
11 qualified actuary is a member of the American academy of actuaries or of any organization considered by
12 the department to have similar standards.

13 (3) In each fiscal year in which an actuarial valuation is prepared, the department shall submit to
14 the state auditor a request for payment of the expense incurred in securing the actuarial valuation. The
15 expense may not exceed \$6,000 in any fiscal year. The state auditor shall make payment to the actuary
16 ~~designated in the request~~ from the general fund. The payment is statutorily appropriated as provided in
17 17-7-502."

18
19 **Section 31.** Section 19-19-305, MCA, is amended to read:

20 **"19-19-305. Annual state payments to municipality with police department.** (1) After the end of
21 each fiscal year, the state auditor shall issue and deliver to the treasurer of each city and town in Montana
22 ~~which that~~ has a police department and ~~which that~~ is not a participant in the municipal police officers'
23 retirement system ~~his a~~ warrant for an amount computed in the same manner as the amount paid (or that
24 would be paid if an existing relief association met the legal requirements for payment) to cities and towns
25 for fire department relief associations pursuant to 19-18-512. The payment from the general fund is
26 statutorily appropriated as provided in 17-7-502.

27 (2) ~~The payments provided for by 19-19-205 and subsection (1) of this section shall be paid from~~
28 ~~the premium tax collected on insurance sold in this state to insure against the risks enumerated in~~
29 ~~19-18-512. Such payments may only be made after deductions have been made from the gross premium~~
30 ~~tax for cancellations and returned premiums.~~

1 ~~(3)~~ Each city or town ~~which~~ that has a police retirement fund shall deposit the payment to the
2 credit of its police retirement fund.

3 ~~(4)~~(3) Payments provided for in 19-19-205 and subsection (1) of this section are in addition to
4 those provided for in 19-19-301."

5

6 **Section 32.** Section 19-19-506, MCA, is amended to read:

7 **"19-19-506. Supplement to certain pensions.** (1) The payment for each fiscal year to the police
8 officers, spouses, or minor children described in subsections (2)(a) through (2)(c) may ~~be~~ not be less than
9 one-half of the salary paid in that fiscal year in the appropriate city or town to newly confirmed police
10 officers.

11 (2) On or before April 1 of each year, the board of trustees shall make a report to the state auditor
12 including the following information:

13 (a) the names of all police officers who are receiving payments from the police retirement fund of
14 the city or town as of the date of the report and who were receiving ~~such~~ the payments prior to July 1,
15 1975;

16 (b) the names of all spouses or minor children who are receiving payments from the police
17 retirement fund because of the death of a police officer who was receiving ~~such~~ payments prior to July 1,
18 1975;

19 (c) the names of all spouses or minor children who are receiving payments from the police
20 retirement fund and who were receiving ~~such~~ payments prior to July 1, 1975, or in the case of minor
21 children, whose parent, the spouse of a police officer, was receiving ~~such~~ payments prior to July 1, 1975;

22 (d) for the purpose of determining the base figure for the computations set forth in subsection (4),
23 the following information relating to the base fiscal year commencing July 1, 1976:

24 (i) the amount of the payments made in the base fiscal year to each police officer described in
25 subsection (2)(a);

26 (ii) the amount of the payments made in the base fiscal year to each spouse or minor child ~~for~~
27 ~~children~~ described in subsection (2)(b) or (2)(c);

28 (iii) upon the death after April 18, 1977, of any police officer on the retired list who was receiving
29 payments from the police retirement fund prior to July 1, 1975, and who is survived by a spouse or minor
30 ~~children~~ child entitled to receive payments ~~therefrom~~ from the police retirement fund, the amount ~~which~~

1 ~~that~~ would have been paid to an eligible spouse of ~~such~~ the police officer ~~had~~ if that spouse had been
2 receiving payments in the base fiscal year.

3 (3) Each fiscal year immediately after the adoption by a city or town having a police retirement fund
4 of its budget for that fiscal year, ~~each~~ such the city or town shall report to the state auditor the salary for
5 that fiscal year of a newly confirmed police officer of that city or town.

6 (4) The state auditor shall, upon receipt of the reports referred to in subsections (2) and (3),
7 compute the difference between each amount reported under subsections (2)(d)(i) through (2)(d)(iii) and
8 one-half the salary for the current fiscal year of a newly confirmed police officer of the appropriate city or
9 town. The difference ~~shall~~ must be paid by the state auditor out of the ~~premium tax collected on insurance,~~
10 ~~as provided in 19-19-305(2),~~ general fund to the treasurer of the appropriate city or town at the same time
11 as and in addition to the payment to be made by the state auditor under 19-19-305(1). The payment is
12 statutorily appropriated as provided in 17-7-502.

13 (5) The treasurer of each city or town receiving funds under subsection (4) shall immediately
14 deposit them to the credit of the city or town's police retirement fund. The board of trustees of the fund
15 shall use the funds to supplement the monthly payments to persons described in subsections (2)(a) through
16 (2)(c) so that the requirements of subsection (1) are met.

17 (6) If more than one minor child is entitled to supplementary payments under this section by virtue
18 of the death of a common parent police officer, the minimum payment to ~~such~~ the minor children under this
19 section ~~shall~~ must be determined as if there were one ~~such~~ minor child and the supplementary payment
20 ~~shall~~ must be made to the minor children collectively."

21

22 **Section 33.** Section 19-20-203, MCA, is amended to read:

23 **"19-20-203. Officers and employees of retirement board.** (1) It is the duty of the retirement board
24 to:

- 25 (a) elect a presiding officer from its membership;
- 26 (b) appoint a secretary, who may be one of its members;
- 27 (c) employ technical or administrative employees who are necessary for the transaction of the
28 business of the retirement system and establish their compensation pursuant to Title 2, chapter 18; and
- 29 (d) designate an actuary who meets the qualifications established by the retirement board to assist
30 the retirement board with the technical actuarial aspects of the operation of the retirement system, which

1 includes establishing mortality and service tables and making an actuarial investigation at least once every
2 5 years into the mortality, service, and compensation experience of the members and beneficiaries of the
3 retirement system.

4 (2) A quorum of the board is three members."
5

6 **Section 34.** Section 19-20-501, MCA, is amended to read:

7 **"19-20-501. Financial administration of money.** The members of the retirement board are the
8 trustees of all money collected for the retirement system, and as trustees, they shall provide for the
9 financial administration of the money as provided in Article VIII, section 15, of the Montana constitution
10 in the following manner:

11 (1) The money must be invested and reinvested by the state board of investments.

12 (2) The retirement board annually shall establish the rate of regular interest.

13 (3) The retirement board annually shall divide among the several reserves of the retirement system
14 an amount equal to the average balance of the reserves during the preceding fiscal year multiplied by the
15 rate of regular interest. In accordance with the provisions of 19-20-605(5), the amount to be credited to
16 each reserve must be allocated from the interest and other earnings on the money of the retirement system
17 actually realized during the preceding fiscal year, less the amount allocated to ~~the expense fund under the~~
18 ~~provisions of 19-20-606~~ administrative expenses. The administrative expenses of the retirement system
19 may not exceed 1.5% of retirement benefits paid.

20 (4) The state treasurer is the custodian of the collected retirement system money and of the
21 securities in which the money is invested.

22 (5) ~~All~~ For purposes of Article VIII, section 12, of the Montana constitution, all the reserves
23 established by part 6 of this chapter must be accounts in the pension trust fund type of the treasury fund
24 structure of the state.

25 (6) Benefits and refunds to eligible recipients are payable pursuant to a contract as contained in
26 statute. Unless specifically provided for by statute, the contract does not contain revisions to statutes after
27 the time of retirement or termination."
28

29 **Section 35.** Section 19-20-605, MCA, is amended to read:

30 **"19-20-605. Pension accumulation fund -- employer's contribution.** The pension accumulation fund

1 is the fund in which the reserves for payment of pensions and annuities must be accumulated and from
2 which pensions, annuities, and benefits must be paid to or on account of beneficiaries credited with prior
3 service. Contributions to and payments from the pension accumulation fund must be made as follows:

4 (1) Each employer shall pay into the pension accumulation fund an amount equal to 7.47% of the
5 earned compensation of each member employed during the whole or part of the preceding payroll period.

6 (2) If the employer is a district or community college district, the trustees shall budget and pay for
7 the employer's contribution under the provisions of 20-9-501.

8 (3) If the employer is the superintendent of public instruction, a public institution of the state of
9 Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the
10 legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's
11 contribution.

12 (4) If the employer is a county, the county commissioners shall budget and pay for the employer's
13 contribution in the manner provided by law for the adoption of a county budget and for payments under
14 the budget.

15 (5) All interest and other earnings realized on the money of the retirement system ~~shall~~ must be
16 credited to the pension accumulation fund, and the amount required to allow regular interest on the annuity
17 savings fund ~~shall~~ must be transferred to that fund from the pension accumulation fund.

18 (6) All pensions, annuities, and benefits must be paid from the pension accumulation fund.

19 (7) The retirement board may, ~~in its discretion,~~ transfer from the pension accumulation fund to the
20 expense fund an amount necessary to cover expenses of administration."

21

22 **Section 36.** Section 50-3-109, MCA, is amended to read:

23 "**50-3-109. Tax on fire insurance premiums ~~for maintenance of state fire prevention and~~**
24 **~~investigation activities of department of justice.~~** (1) Each insurer authorized to effect insurance on risks
25 enumerated in ~~19-18-512~~ subsection (2) doing business in this state shall pay to the state auditor ~~and~~
26 ~~commissioner of insurance ex officio~~ during the month of February or March in each year, in addition to the
27 taxes on premiums required by law to be paid by it, ~~a tax of 1%~~ taxes on the fire portion of the direct
28 premiums on ~~such~~ the enumerated risks received during the calendar year next preceding after deducting
29 cancellations and return premiums. The taxes are:

30 (a) 1% to be deposited as provided in 17-2-121; and

1 (b) 1 1/2% to be used for purposes of 19-13-1006.

2 (2) The risks referred to in subsection (1) are:

3 (a) insurance of houses, buildings, and all other kinds of property against loss or damage by fire
4 or other casualty;

5 (b) all kinds of insurance on goods, merchandise, or other property in the course of transportation,
6 whether by land, water, or air;

7 (c) insurance against loss or damage to motor vehicles resulting from accident, collision, or marine
8 and inland navigation and transportation perils;

9 (d) insurance of growing crops against loss or damage resulting from hail or the elements;

10 (e) insurance against loss or damage by water to any goods or premises arising from the breakage
11 or leakage of sprinklers, pumps, or other apparatus;

12 (f) insurance against loss or legal liability for loss because of damage to property caused by the
13 use of teams or vehicles, whether by accident or collision or by explosion of any engine, tank, boiler, pipe,
14 or tire of any vehicle; and

15 (g) insurance against theft of the whole or any part of a vehicle."

16
17 **Section 37.** Section 61-3-321, MCA, is amended to read:

18 **"61-3-321. Registration fees of vehicles -- public-owned vehicles exempt from license or**
19 **registration fees -- disposition of fees.** (1) Registration or license fees must be paid upon registration or
20 reregistration of motor vehicles, trailers, housetrailers, and semitrailers, in accordance with this chapter,
21 as follows:

22 (a) motor vehicles weighing 2,850 pounds or under (other than motortrucks), \$5;

23 (b) motor vehicles weighing over 2,850 pounds (other than motortrucks), \$10;

24 (c) electrically driven passenger vehicles, \$10;

25 (d) all motorcycles and quadricycles, \$2;

26 (e) tractors or trucks, \$10;

27 (f) buses, which are classed as motortrucks, licensed accordingly;

28 (g) trailers and semitrailers less than 2,500 pounds declared weight and housetrailers of all weights,
29 \$2;

30 (h) trailers and semitrailers over 2,500 up to 6,000 pounds declared weight (except housetrailers),

- 1 \$5;
- 2 (i) trailers and semitrailers over 6,000 pounds declared weight, \$10, except trailers and semitrailers
- 3 registered in other jurisdictions and registered through a proportional registration agreement;
- 4 (j) trailers used exclusively in the transportation of logs in the forest or in the transportation of oil
- 5 and gas well machinery, road machinery, or bridge materials, new and secondhand, \$15 annually,
- 6 regardless of size or capacity.
- 7 (2) All rates are 25% higher for motor vehicles, trailers, and semitrailers that are not equipped with
- 8 pneumatic tires.
- 9 (3) "Tractor", as specified in this section, means any motor vehicle, except a passenger car, that
- 10 is used for towing a trailer or semitrailer.
- 11 (4) If any motor vehicle, housetrailer, trailer, or semitrailer is originally registered 6 months after
- 12 the time of registration as set by law, the registration or license fee for the remainder of the year is one-half
- 13 of the regular fee.
- 14 (5) An additional fee of \$5.25 a year for each registration of a vehicle, except trailers and
- 15 semitrailers registered in other jurisdictions and registered through a proportional registration agreement,
- 16 must be collected as a registration fee. Revenue from this fee must be forwarded by the respective county
- 17 treasurers to the state treasurer for deposit in the general fund. The department shall ~~distribute~~ pay an
- 18 amount equal to 25 cents from the each motor vehicle registration fee from the general fund to the pension
- 19 trust fund for payment of supplemental benefits provided for in 19-6-709.
- 20 (6) A fee of \$2 for each set of new number plates must be collected when number plates provided
- 21 for under 61-3-332(3) are issued. Revenue from this fee must be deposited as provided in subsection (5).
- 22 (7) The provisions of this part with respect to the payment of registration fees do not apply to and
- 23 are not binding upon motor vehicles, trailers, semitrailers, or tractors owned or controlled by the United
- 24 States of America or any state, county, city, or special district, as defined in 18-8-202.
- 25 (8) The provisions of this section relating to the payment of registration fees or new number plate
- 26 fees do not apply when number plates are transferred to a replacement vehicle under 61-3-317, 61-3-332,
- 27 or 61-3-335. (See compiler's comments for contingent termination of certain text.)"
- 28

29 **Section 38.** Section 76-13-114, MCA, is amended to read:

30 **"76-13-114. Disposition of fines.** Fines collected in a court of the state under this part or part 2,

except those collected in a justice's court, ~~shall~~ must be transferred to the state treasurer for deposit in the ~~agency state special revenue~~ fund. Whenever a person is convicted in any court of a violation of this part or part 2, the court may levy and collect as costs in the case the amount necessary to compensate the county for the expenditures made in and for the prosecution of the offender. These costs when collected, except those collected in a justice's court, ~~shall~~ must be deposited by the court with the proper county treasurer for the benefit of the county."

NEW SECTION. SECTION 39. COORDINATION INSTRUCTIONS. (1) IF HOUSE BILL NO. 170 IS PASSED AND APPROVED AND IF IT CONTAINS A NEW [SECTION 4] PROVIDING FOR STATE CONTRIBUTIONS TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON BEHALF OF LOCAL GOVERNMENTS, THEN:

(A) THE NEW [SECTION 4 OF HOUSE BILL NO. 170] SHALL READ:

"Section 4. State contributions for local government and school district employers. The state shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation of members employed by local government entities and school districts on and after [the effective date of this act]. The division shall certify amounts due under this section on a monthly basis, and the state treasurer shall transfer those amounts to the pension trust fund within 1 week. The payment is statutorily appropriated as provided in 17-7-502."; AND

(B) [SECTION 44 15 OF THIS ACT], AMENDING 17-7-502, SHALL INCLUDE IN THE LIST OF SECTIONS WITH A STATUTORY APPROPRIATION, [SECTION 4 OF HOUSE BILL NO. 170].

(2) IF EITHER HOUSE BILL NO. 173 OR HOUSE BILL NO. 430, IS PASSED AND APPROVED, OR IF BOTH ARE PASSED AND APPROVED, AND IF EITHER OR BOTH REPEAL 19-13-1006, THEN:

(A) [SECTION 27 28 OF THIS ACT], AMENDING 19-17-301, SHALL READ:

"Section 27 28. Section 19-17-301, MCA, is amended to read:

"19-17-301. Fire insurance premium tax to be paid into pension trust fund. The state auditor ~~and ex-officio commissioner of insurance~~ shall annually ~~deposit in~~ pay from the general fund to the pension trust fund a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against risks enumerated in ~~19-18-512~~ 50-3-109. The sum must be computed before the amounts provided for by 19-13-604 and 19-18-512 are deducted. The money must be used for the payment of claims, benefits, and administrative costs as provided in this chapter. The money is statutorily appropriated as

provided in 17-7-502.""; AND

(B) THE INTERNAL REFERENCE TO 19-13-1006 IN [SECTION 44 15 OF THIS ACT], AMENDING
17-7-502, MUST BE REMOVED.

NEW SECTION. Section 40. Repealer. (1) Sections 19-9-208, 19-13-615, 19-18-513, 19-18-606,
and 19-20-606, MCA, are repealed.

(2) SECTION 13, CHAPTER 23, SPECIAL LAWS OF NOVEMBER 1993, IS REPEALED.

NEW SECTION. Section 41. Effective date. ~~[This~~ DATES. (1) EXCEPT AS PROVIDED IN
SUBSECTION (2), [THIS act] is effective July 1, 1997.

(2) [SECTION 40(2) AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.

-END-